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9/12/2013

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Check Number 21193622
Tuesday, DEC 24, 2013 10:19:16
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CITY OF FRESNO
City Clerk's Office (Original)

CITY OF FRESNO

By: Bruce Rudd
Bruce Rudd, City Manager

Date: 9/23/13

CITY OF FRESNO
HOME INVESTMENT PARTNERSHIPS PROGRAM AGREEMENT

by and between

CITY OF FRESNO,
a municipal corporation

and

Southeast Fresno RAD, LP, a California limited partnership

regarding

Cedar Courts Apartments Fresno Rental Assistance Demonstration (RAD) Rehabilitation Project
4216 E. Hamilton Avenue, South East Fresno, CA 93702 (A.P.N.: 471-212-01T, 471-211-01T, and portion of 471-220-01T)
and
Inyo Terrace Apartments Fresno Rental Assistance Demonstration (RAD) Rehabilitation Project
510 S. Peach Avenue, South East Fresno, CA 93727 (APN: 463-050-22T)

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HOME INVESTMENT PARTNERSHIPS PROGRAM AGREEMENT

This HOME Investment Partnerships Program Agreement (hereinafter referred to as the "Agreement") is entered into this, 9/12, 2013, by and between the City of Fresno, a municipal corporation, acting through its Development and Resource Management Department - Housing and Community Development Division (hereinafter referred to as the "CITY"), and Southeast Fresno RAD, LP, a California limited partnership (hereinafter referred to as "DEVELOPER").

RECITALS

A. WHEREAS, the CITY has received a HOME Investment Partnerships ("HOME") Program grant from the U.S. Department of Housing and Urban Development (hereinafter referred to as ("HUD"), under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended (hereinafter referred to as the "Act").

B. WHEREAS, to advance the supply of Affordable rental housing within the City of Fresno the CITY desires, among other things, to encourage investment in the affordable housing market.

C. WHEREAS, the DEVELOPER desires to rehabilitate the Cedar Courts and Inyo Terrance Apartments and related on-site improvements (collectively the "Property") located within the boundaries of the City of Fresno, as more particularly described in EXHIBIT "A" – Property Description, (hereinafter referred to as the "Project").

D. WHEREAS, the DEVELOPER desires to act as the owner/developer exercising effective project control, as to the rehabilitation and related on-site improvements of one hundred forty-nine (149) units in the Cedar Courts Apartments and forty-four (44) units in the Inyo Terrace Apartments of which nine (9) will be a HOME-assisted units to be preserved as Low-Income rental housing, as defined by the HOME Program, as more particularly described in EXHIBIT "B" – Project Description and Schedule, incorporated herein.

E. WHEREAS, the Project will be rehabilitated upon HOME Program eligible Property owned by the DEVELOPER.

F. WHEREAS, to further its goal to increase the supply of Affordable Housing within the City of Fresno, the CITY desires to provide HOME Program funding assistance to the Project as a One Million Five Hundred Thousand dollars and 00/100 ($1,500,000.00) residual receipts loan at 4% interest for a term of fifty-five (55) years for eligible HOME Project rehabilitation costs, upon the terms and conditions in this Agreement, as further identified in EXHIBIT "C" – Budget, to be secured by the underlying Property and the Affordable Housing covenants attached as EXHIBIT "D" – Exemplar Declaration of Restriction, and Note, Exemplar Notes attached as EXHIBIT "F" – Promissory Note loan, upon the terms and conditions in this Agreement.

G. WHEREAS, the CITY conducted an environmental review of the Project pursuant to the California Environmental Quality Act ("CEQA") guidelines on March 6, 2013, which resulted in a Categorical Exemption. Additionally, the CITY completed an environmental

review of the Project pursuant to the National Environmental Policy Act ("NEPA") guidelines on January 24, 2013, that resulted in a Finding of No Significant Impact.

H. WHEREAS, the CITY has determined that this Agreement is in the best interest of, and will materially contribute to, the Housing Element of the General Plan. Further, the CITY has found that the Project: (i) will have a positive influence in the neighborhood and surrounding environs, (ii) is in the vital and best interest of the CITY, and the health, safety, and welfare of CITY residents, (iii) complies with applicable federal, State, and local laws and requirements, (iv) will increase, improve, and preserve the community's supply of Low-Income Housing available at an affordable cost to Low-Income household, as defined hereunder, (v) planning and administrative expenses incurred in pursuit hereof are necessary for the production, improvement, or preservation of Low-Income Housing, and (vi) will comply with any and all owner participation rules and criteria applicable thereto.

I. WHEREAS, the CITY and DEVELOPER have determined that the Project's HOME-assisted Units constitute routine programmatic/grantee lender activities utilizing available and allocated program/grantee funding, outside the reach of the California Constitution Article XXXIV and enabling legislation.

J. WHEREAS, the parties acknowledge and agree that the obligations and liabilities of the DEVELOPER hereunder shall be joint and several unless and except to any extent expressly provided otherwise.

K. WHEREAS, on August 28, 2013, the Housing and Community Development Commission of the City of Fresno reviewed this HOME Agreement and recommended approval.

L. WHEREAS, on 2/27, 2013, the DEVELOPER'S Board reviewed and approved the development of the Project and HOME Agreement.

NOW, THEREFORE, IN CONSIDERATION of the above recitals, which recitals are contractual in nature, the mutual promises herein contained, and for other good and valuable consideration hereby acknowledge, the parties agree as follows:

ARTICLE 1. DEFINITIONS

The following terms have the meaning and content set forth in this Article wherever used in this Agreement, attached exhibits or attachments that are incorporated into this Agreement by reference.

1.1 Acquisition means vesting of the Property in fee title to the DEVELOPER.

1.2 ADA means the Americans with Disabilities Act of 1990, as most recently amended.

1.3 Affirmative Marketing means a good faith effort to attract eligible persons of all racial, ethnic and gender groups, in the housing market area, to purchase the proposed Housing Unit that proposed for rehabilitation on the eligible Property, as hereinafter defined.

1.4 Affordability Period means the minimum period of fifty-five (55) years commencing from the date the CITY enters project completion information into HUD's Integrated Disbursement and Information System (IDIS), which date will be provided to the DEVELOPER by the CITY and added as an administrative amendment hereto; City agrees to enter project completion information into IDIS within 30 days of City's receipt thereof.

1.5 Affordable Rental Housing means nine (9) of the one hundred and ninety-three (193) Housing units required to meet the affordability requirements of 24 C.F.R. 92.252.

1.6 Budget means the pro-forma Budget, attached hereto as EXHIBIT "C", for the development of the Project, as may be amended upon the approval of the CITY's Housing and Community Development Division Manager provided any increase in HOME Funds hereunder requires City Council Approval.

1.7 Certificate of Completion means that certificate issued, in the form attached as EXHIBIT "E" ("Exemplar Certificate of Completion"), to the DEVELOPER by the CITY evidencing completion of the Project and a release of construction related covenants for the purposes of the Agreement.

1.8 CFR means the Code of Federal Regulations.

1.9 Commencement of Rehabilitation means the time the DEVELOPER or the DEVELOPER's construction contractor begins substantial physical work on the Property, including, without limitation, delivery of materials and any work, beyond maintenance of the Property in its status quo condition, which shall take place in accordance with the Project Schedule.

1.10 Declaration of Restrictions means the Declaration of Restrictions in the form attached hereto as EXHIBIT "D", which contains the Affordability covenants and requirements of this Agreement which shall run with the land and which the DEVELOPER shall record or cause to be recorded against the Property no later than the date of Commencement of Rehabilitation.

1.11 Deed of Trust means that standard form Deed of Trust (including the security agreement) given by the DEVELOPER as Trustor, to the CITY as beneficiary attached as EXHIBIT "G" to the Note and acceptable to the City Attorney, as well as any amendments to, modification of and restatements of said Deed of Trust, which Deed of Trust shall be subordinated to Project lenders per the Budget attached as EXHIBIT "C". There terms of any such Deed of Trust are hereby incorporated into this Agreement by this reference.

1.12 Eligible Costs means the HOME eligible Property rehabilitation costs funded by the Loan, consistent with the Project Budget attached as EXHIBIT "C", allowable under 24 C.F.R. Part 92, as specified in 24 C.F.R. 92.205 and 92.206, and not disallowed by 24 C.F.R. 92.214, provided, however, that costs incurred in connection with any activity that is determined to be ineligible under the Program by HUD or the CITY shall not constitute Eligible Costs.

1.13 Event of Default shall have the meaning assigned to such term under Section

10.1 hereunder.

1.14 Family has the same meaning given that term in 24 C.F.R. 5.403.

1.15 Funding Sources means the CITY's HOME Funds, the DEVELOPER's funds, and any other funds that may become available to the Project.

1.16 Hazardous Materials means any hazardous or toxic substances, materials, wastes, pollutants or contaminants which are defined, regulated or listed as "hazardous substances," "hazardous wastes," "hazardous materials," "pollutants," "contaminants" or "toxic substances" under federal or state environmental and health safety laws and regulations, including without limitation, petroleum and petroleum byproducts, flammable explosives, urea formaldehyde insulation, radioactive materials, asbestos and lead. Hazardous Materials do not include substances that are used or consumed in the normal course of developing, operating or occupying a housing project, to the extent and degree that such substances are stored, used and disposed of in the manner and in amounts that are consistent with normal practice and legal standards.

1.17 HOME Investment Partnerships Funds (also referred to in this Agreement as HOME Funds) means the HOME Program monies consisting of the Loan in an amount not to exceed the sum of One Million Five Hundred Thousand dollars and 00/100 ($1,500,000.00) to be used for eligible Project rehabilitation costs, pursuant to this Agreement.

1.18 Household means one or more persons occupying a Unit within the Project.

1.19 HUD means the United States Department of Housing and Urban Development.

1.20 Loan means the assumable Project Loan of HOME Funds, in the total amount not to exceed the lesser of (i) One Million Five Hundred Thousand dollars and 00/100 ($1,500,000.00) or (ii) the aggregate HOME per unit cap (24 CFR 92.250) for the HOME-assisted Units as determined by the CITY and made available by the CITY to the Project pursuant to this Agreement, as more specifically described in the Budget and in the Promissory Note attached as EXHIBIT "F". The Loan shall be payable in accordance with the terms of the Note, shall be secured by a deed of trust attached as EXHIBIT "G".

1.21 Loan Documents are collectively this Agreement, the Note (attached hereto as EXHIBIT "F"), Deed of Trust, Declaration of Restrictions, and all related documents/instruments as they may be amended, modified or restated from time to time along with all exhibits and attachments thereto, relative to the Loan.

1.22 Low-Income Household means families whose annual income does not exceed eighty percent (80%) of the median income for the Fresno, California area as determined by HUD, except as HUD may establish income ceilings higher or lower than eighty percent (80%) of the median for the area on the basis of HUD finding that such variations are necessary.

1.23 Note means that certain assumable, HOME Loan Note in a principal amount

not to exceed the HOME Program per unit cap (24 C.F.R. 92.250) as determined by the CITY, given by the DEVELOPER as promissor, in favor of the CITY as promisee, evidencing the Loan and performance of the affordability and other covenants and restrictions set forth in this Agreement, secured by the Deed of Trust as 3rd position lien upon the Property, naming the CITY as beneficiary and provided to the CITY, no later than the date of the Affordable Project funding hereunder, an exemplar of which is attached hereto as EXHIBIT "F", and incorporated herein, as well as any amendments to, modifications of and restatements of said Note consented to by the CITY.

1.24 Program Income has the meaning provided in the HOME Program including 24 C.F.R. 92.503.

1.25 Project means the rehabilitation of the Cedar Court Apartments located at 4216 E. Hamilton Avenue, Fresno, CA 93702 and Inyo Terrance Apartments located at 510 S. Peach, Fresno, CA 93727, and related on-site improvements all as described in the Project Description and Schedule attached hereto and incorporated herein as EXHIBIT "B", upon the property as more particularly described in EXHIBIT "A".

1.26 Project Completion Date means the date that the CITY shall have determined that the Project: 1) has reached completion in accordance with the scope of work as approved by the CITY; 2) is in compliance with all Housing Standards, and 3) has been issued a Certificate of Occupancy, 4) final Project costs and Household information is entered into IDIS.

1.27 Project Schedule means the schedule for commencement and completion and close of escrow of the Project included in EXHIBIT "B".

1.28 Property means 4216 E. Hamilton, Fresno, CA 93702 (APN: 471-212-01T, 471-211-01T, and portion of 471-220-01T) and 510 South Peach Avenue, Fresno, CA 93727 (A.P.N.: 463-050-22T), more specifically described in the Property Descriptions attached to EXHIBIT "A".

1.29 Unit means the one hundred and ninety-three (193) affordable rental housing units of which nine (9) Units shall be HOME-assisted Affordable rental Housing Units to be rehabilitated upon the Property and preserved as Affordable Housing for the duration of the fifty-five (55) year Affordability Period.

ARTICLE 2. TERMS OF THE LOAN

2.1 Loan of HOME Funds. The CITY agrees to provide a Loan of HOME Funds to the DEVELOPER in an amount not to exceed One Million Five Hundred Thousand dollars and 00/100 ($1,500,000.00) under the terms and conditions provided in this Agreement. The HOME Funds shall be used for payment of HOME Eligible Costs.

2.2 Loan Documents. The DEVELOPER shall execute and deliver the Loan Documents including the Note to the CITY, and the notarized Deed of Trust to Placer Title Company for recordation against the Property, as provided for in this Agreement.

2.3 Term of Agreement. This Agreement is effective upon the date of execution and shall remain in force with respect to the Project for the duration of the Affordability

Period unless earlier terminated as provided herein. After the fifty-five (55) year Affordability Period, this Agreement will expire. It is understood and agreed upon, however, that if for any reason this Agreement should be terminated in whole or in part as provided hereunder, without default, by the DEVELOPER prior to disbursement of HOME Program funding hereunder, the CITY agrees to record a Notice of Cancellation regarding this Agreement, upon the written request of the DEVELOPER.

2.4 Loan Repayment and Maturity. The Loan will be due and payable in accordance with the Note and not later than the Maturity date provided in the Note.

2.5 Incorporation of Documents. The DEVELOPER's HOME application dated July 8, 2013, the CITY Council approved Minutes of September 12, 2013, approving this Agreement, the Loan Documents, the Act and HUD regulations at 24 C.R.F. Part 85, 92, CPD 98-2 and all exhibits, attachments, documents and instruments referenced herein, as now in effect and as may be amended from time to time, constitute part of this Agreement and are incorporated herein by reference. All such documents have been provided to the parties herewith or have been otherwise provided to/procured by the parties and reviewed by each of them prior to execution hereof.

2.6 Covenants of DEVELOPER. The DEVELOPER for itself and its agents/assigns covenants and agrees to comply with all the terms and conditions of this Agreement and the requirements of 24 CFR Part 92.

2.7 Subordination. This Agreement and the Deed of Trust may be subordinated to certain approved financing (in each case, a "Senior Lender"), to no worse than 3rd position, but only on condition that all of the following conditions are satisfied: (a) all of the proceeds of the proposed Senior Loan, less any transaction costs, must be used to provide construction or permanent financing for the Project consistent with an approved financing plan; (b) the DEVELOPER must demonstrate to the CITY's reasonable satisfaction that subordination of Deed of Trust is necessary to secure adequate construction or permanent financing to ensure the viability of the Project; (c) the subordination agreement must provide the CITY with adequate rights to cure any defaults by the DEVELOPER including providing the CITY or its successor with copies of any notices of default; (d) upon a determination by the City Manager that the conditions in this Section have been satisfied, the City Manager or his/her designee will be authorized to execute the approved subordination agreement, inter-creditor agreements, standstill agreements, and/or other documents as may be reasonably requested by the Lender to evidence subordination to the Project financing, without the necessity of any further action or approval provided that such agreements contain written provisions that are no more onerous and which are consistent with the customary standard requirements imposed by the financing source(s), on subordinate cash flow obligations under their then existing senior financing policies, and further provided that the City Attorney approves such document(s) as to form.

2.8 Non-recourse. This financing is non-recourse to any public housing property (real or personal property including all public housing assets or income), or disposition proceeds approved pursuant to Section 18 of the United States Housing Act of 1937 (unless explicitly permitted by HUD in the Section 18 approval letter).

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF DEVELOPER

3.1 Existence and Qualification. The DEVELOPER, represents and warrants to the CITY as of the date hereof, that the DEVELOPER is a duly organized California corporation in good standing with the State of California; the DEVELOPER has the requisite power, right, and legal authority to execute, deliver, and perform its obligations under the HOME Agreement has taken all actions necessary to authorize the execution, delivery, performance, and observance of its obligations under this Agreement. This Agreement, when executed and delivered by the DEVELOPER enforceable against the DEVELOPER in accordance with its respective terms, except as such enforceability may be limited by: (a) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, or other similar laws of general applicability affecting the enforcement of creditors' rights generally, and (b) the application of general principles of equity without the joinder of any other party.

3.2 No Litigation Material to Financial Condition. The DEVELOPER represents and warrants to the CITY as of the date hereof that, except as disclosed to and approved by CITY in writing, no litigation or administrative proceeding before any court or governmental body or agency is now pending, nor, to the best of the DEVELOPER's knowledge, is any such litigation or proceeding now threatened, or anticipated against the DEVELOPER that, if adversely determined, would have a material adverse effect on the financial condition, business, or assets of the DEVELOPER or on the operation of the Project.

3.3 No Conflict of Interest. The DEVELOPER represents and warrants to the CITY as of the date hereof that no officer, agent, or employee of the CITY directly or indirectly owns or controls any interest in the DEVELOPER, and no person, directly or indirectly owning or controlling any interest in the DEVELOPER, is an official, officer, agent, or employee of the CITY.

3.4 No Legal Bar. The DEVELOPER represents and warrants to the CITY, as of the date hereof that the execution, delivery, performance, or observance by the DEVELOPER of this Agreement will not, to the best of the DEVELOPER's knowledge, materially violate or contravene any provisions of: (a) any existing law or regulation, or any order of decree of any court, governmental authority, bureau, or agency; (b) governing documents and instruments of the DEVELOPER; or (c) any mortgage, indenture, security agreement, contract, undertaking, or other agreement or instrument to which the DEVELOPER is a party or that is binding on any of its properties or assets, the result of which would materially or substantially impair the DEVELOPER's ability to perform and discharge its obligations or its ability to complete the Project under this Agreement.

3.5 No Violation of Law. The DEVELOPER represents and warrants to the CITY as of the date hereof that, to the best of the DEVELOPER's knowledge, this Agreement and the operation of the Project as contemplated by the DEVELOPER, do not violate any existing federal, state or local laws of regulations.

3.6 No Litigation Material to Project. The DEVELOPER represents and warrants to the CITY as of the date hereof, except as disclosed to, and approved by the CITY in writing, there is no action, proceeding, or investigation now pending, or any basis therefor

known or believed to exist by the DEVELOPER that questions the validity of this Agreement, or of any action to be taken under this Agreement, that would, if adversely determined, materially or substantially impair the DEVELOPER's ability to perform and observe its obligations under this Agreement, or that would either directly or indirectly have an adverse effect or impair the completion of the Project.

3.7 Assurance of Governmental Approvals and Licenses. The DEVELOPER represents and warrants to the CITY, as of the date hereof, that the DEVELOPER has obtained and, to the best of the DEVELOPER's knowledge, is in compliance with all federal, state, and local governmental reviews, consents, authorizations, approvals, and licenses presently required by law to be obtained by the DEVELOPER for the Project as of the date hereof.

ARTICLE 4. COVENANTS OF THE DEVELOPER

The DEVELOPER, for itself and its development team represents and warrants that:

4.1 Accessibility. The DEVELOPER covenants and agrees with the CITY that it shall comply with 24 C.F.R. Par 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), including, without limitation, the construction of the Project so that it meets the applicable accessibility requirements, including, but not limited to, the following:

A. At least five percent (5%) of the dwelling units, or at least eight (8), whichever is greater, must be constructed to be accessible for persons with mobility disabilities. An additional two percent (2%) of the dwelling units, or at least three (3) units, whichever is greater, must be accessible for persons with hearing or visual disabilities. These units must be constructed in accordance with the Uniform Federal Accessibility Standards (U.F.A.S.) or a standard that is equivalent or stricter. These mandates can be found at 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

B. Title III of the Americans with Disability Act of 1990 (ADA) as it relates to the required accessibility of public and common use areas of the Project.

4.2 Affirmative Marketing. The DEVELOPER warrants, covenants and agrees with the CITY that it shall comply with all affirmative marketing requirements, including without limitation, those set out at 24 C.F.R. 92.350 and 92.351, in order to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market in the sale of the Project Unit. The DEVELOPER shall be responsible for complying with the CITY's "Affirmative Marketing Policy" document, as amended from time to time. The DEVELOPER shall maintain records of actions taken to affirmatively market units constructed in the future, and to assess the results of these actions.

4.3 Availability of HOME Funds. The DEVELOPER understands and agrees that the availability of HOME Funds is subject to the control of HUD, or other federal agencies, and should said Funds be encumbered, withdrawn or otherwise made unavailable to the CITY, whether earned by or promised to the DEVELOPER, and/or should the CITY in any fiscal year hereunder fail to allocate said Funds, the CITY shall not provide said Funds

unless and until they are made available for payment to the CITY by HUD and the CITY receives and allocates said Funds. No other funds owned or controlled by the CITY shall be obligated under this Agreement to the Project.

4.4 Compliance with Agreement. The DEVELOPER warrants, covenants and agrees with the CITY that, in accordance with the requirements of 24 C.F.R. 92.252 and 24 C.F.R. Part 85, upon any uncured default by the DEVELOPER within the meaning of Article 10.1 of this Agreement, the CITY may suspend or terminate this Agreement and all other agreements with the DEVELOPER without waiver or limitation of rights/remedies otherwise available to the CITY.

4.5 Conflict of Interest. The DEVELOPER warrants, covenants and agrees with the CITY that it shall comply with the Conflict of Interest requirements of 24 C.F.R. 92.356 including, without limitation, that no officer, employee, agent or consultant of the DEVELOPER may occupy a Project Unit. The DEVELOPER understands and acknowledges that no employee, agent, consultant, officer or elected official or appointed official of the CITY, who exercises any functions or responsibilities with respect to the Project, or who is in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from the Project, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for anyone with which that person has family or business ties, during his or her tenure or for one year thereafter. To the extent provided at 24 C.F.R. 92.356(f), no owner, developer or sponsor of the Project, or officer, employee, agent or consultant thereof, may occupy a Project Unit.

4.6 Construction Standards. The DEVELOPER shall rehabilitate the proposed Project Unit assisted under this Agreement in compliance with all applicable local codes, ordinances and zoning requirements in effect at the time of issuance of CITY building permits.

4.7 Covenants and Restrictions to Run with the Land. The CITY and the DEVELOPER expressly warrant, covenant and agree to ensure that the covenants and restrictions set forth in this Agreement are recorded and will run with the land, provided, however, that, on expiration of this Agreement such covenants and restrictions shall expire, provided that such agreements contain written provisions that are no more onerous and which are consistent with the customary standard requirements imposed by the financing source(s), on subordinate cash flow obligations under their then existing senior financing policies, and further provided that the City Attorney approves such document(s) as to form.

A. The CITY and the DEVELOPER hereby declare their understanding and intent that the covenants and restrictions set forth herein directly benefit the land (a) by enhancing and increasing the enjoyment and ownership of the proposed Project by a certain Low-Income Household, and (b) by making possible the obtaining of advantageous financing for the rehabilitation.

B. The DEVELOPER covenants and agrees with the CITY that after issuance of a recorded Certification of Completion for the Project until the expiration of the Affordability Period it shall cause the nine (9) Project Units to be rented as HOME-assisted Affordable Housing to Low-Income Households.

C. Without waiver or limitation, the CITY shall be entitled to injunctive or other equitable relief against any violation or attempted violation of any covenants and restrictions, and shall, in addition, be entitled to damages available under law or contract for any injuries or losses resulting from any violations thereof.

D. All present and future owners of the Property and other persons claiming by, through, or under them shall be subject to and shall comply with the covenants and restrictions. The acceptance of a deed of conveyance to the Property shall constitute an agreement that the covenants and restrictions, as may be amended or supplemented from time to time, are accepted and ratified by such future owners, tenant or occupant, and all such covenants and restrictions shall be covenants running with the land and shall bind any person having at any time any interest or estate in the Property, all as though such covenants and restrictions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

E. The failure or delay at any time of the CITY or any other person entitled to enforce any such covenants or restrictions shall in no event be deemed a waiver of the same, or of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof.

4.8 Displacement of Persons. The DEVELOPER covenants and agrees with the CITY that pursuant to 24 C.F.R. 92.353, it will take all reasonable steps to minimize the displacement of any persons (families, individuals, businesses, nonprofit organizations and farms). The parties acknowledge and agree that the Property is currently occupied with tenants.

4.9 Initial and Annual Income Certification and Reporting. The DEVELOPER covenants and agrees that it shall comply with the procedures for income determinations at 24 C.F.R. 92.203 for the nine (9) HOME-assisted units. The DEVELOPER, shall obtain, complete and maintain on file, immediately prior to initial occupancy, and annually thereafter, income certifications from each tenant Household renting any HOME-assisted Unit. The DEVELOPER, shall make a good faith effort to verify that the income provided by an applicant or occupying Household in an income certification is accurate by taking one or more of the following steps as part of the verification process: (1) obtain a pay stub for the most recent pay period; (2) obtain an income verification form from the applicant's current employer; (3) obtain an income verification form from the Social Security Administration and California Department of Social Services if the applicant receives assistance from either of such agencies; (4) obtain income tax return for the most recent tax year; or (5) if the applicant is unemployed, obtain another form of independent verification. Copies of Household income certification and verification must be available for review and approval by the CITY. The DEVELOPER further warrants, covenants and agrees that it cooperate with the CITY in the CITY's income certification/affordability monitoring activities.

4.10 Lead-Based Paint. The DEVELOPER covenants and agrees with the CITY that it shall comply with all applicable requirements of the Lead-Based Paint Poisoning Prevention Act of 42 U.S.C. 4821 et seq., 24 C.F.R. Part 35, including the HUD 1012 Rule, and 24 C.F.R. 982.401(j), and any amendment thereto, and Environmental Protection Agency (EPA) Section 402 (c)(3) of the Toxic Substances Control Act (TSCA) to address

lead-based hazards created by renovation, repair, and painting activities that disturb lead-based paint in target housing and child-occupied facilities. Contractors performing renovations in lead-based paint units must be EPA-certified renovators. These requirements apply to all units and common areas of the Project. The DEVELOPER shall incorporate or cause incorporation of this provision in all contracts and subcontracts for work performed on the Project, which involve the application of paint. The DEVELOPER shall be responsible for all disclosure, inspection, testing, evaluation, and control and abatement activities.

4.11 Minority Outreach Activities. The DEVELOPER covenants and agrees with the CITY that it shall comply with all federal laws and regulations described in Subpart H of 24 C.F.R. Part 92, including, without limitation, any requirement that the DEVELOPER comply with the CITY's minority outreach program.

4.12 Other Laws and Regulations. The DEVELOPER covenants and agrees with the CITY that, in addition to complying with the federal laws and regulations already cited in this Agreement, the DEVELOPER has reviewed, and shall comply with and require all its contractors and subcontractors on the Project to comply with, all other federal laws and regulations that apply to the HOME Program, including, without limitation, requirements of 24 C.F.R. 58.6 and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128 the following:

A. The DEVELOPER does not intend to use any financing that is secured by a mortgage insured by HUD in connection with the Project as part of its rehabilitation costs of the Project.

B. The Project is not located in a tract identified by the Federal Emergency Management Agency as having special flood requirements.

C. The Project requirements, Subpart F of 24 C.F.R. Part 92, as applicable and in accordance with the type of Project assisted, including, but not limited to, the HOME per-unit subsidy amount at 24 C.F.R. 92.250.

D. The property standards at 24 CFR 92.251.

E. The Project "Labor" requirements, as applicable, of 24 C.F.R. 92.354 including Davis Bacon prevailing wage requirements (40 U.S.C. 276a - 276a-7), as supplemented by Department of Labor regulations (29 CFR Part 5).

F. The provisions of Section 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor Regulations (29 CFR Part 5), in regards to the construction and management of the proposed Project.

G. The DEVELOPER and its contractors, subcontractors and service providers for the Project, shall comply with all applicable local, State and federal requirements concerning equal employment opportunity, including compliance with Executive Order (E.O.) 11246, "Equal Employment Opportunity", as amended by E.O. 11375, (amending E.O. 11246 Relating to Equal Employment Opportunity), and as

supplemented by regulations at 41 C.F.R. part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor".

H. The provisions of the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

I. The provisions of the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

J. The provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

K. The provision of E.O.s 12549 and 12689, "Debarment and Suspension," as set forth at 24 C.F.R. part 24.

L. The provisions of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701), in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

M. Title 8 of the Civil Rights Act of 1968 PL. 90-284.

N. E.O. 11063 on Equal Opportunity and Housing.

O. Section 3 of the Housing and Urban Development Act of 1968

P. The Housing and Community Development Act of 1974.

Q. Clean Water Requirements 33 U.S.C. 1251.

R. Civil Rights Requirements, 29 U.S.C. 623, 42 U.S.C. 2000, 42 U.S.C. 6102, 42 U.S.C 12112, 42 U.S.C. 12132, 49 U.S.C 5332, 29 C.F.R. Part 1630, 41 C.F.R. and Part 60 et seq.

4.13 Faith Based Activities. The DEVELOPER warrants, covenants and agrees with the CITY that it shall not engage in any prohibited activities described in 24 C.F.R. 92.257.

4.14 Reporting Requirements. The DEVELOPER warrants, covenants and agrees with the CITY that it shall submit performance reports to the CITY as detailed in Section 7.17. Furthermore, the DEVELOPER agrees to provide, at the sole cost of the DEVELOPER, an annual audited Financial Statements for the Project expenses and ongoing financial transactions which occur as a result of this Agreement as detailed in Section 5.6. The DEVELOPER agrees to account for the expenditure of HOME Funds using generally accepted accounting principles, which financial documentation shall be made available to the CITY and HUD upon their respective written request(s).

4.15 Affordability Period. The DEVELOPER covenants and agrees with the CITY that the nine (9) of the Project Units will be Affordable Housing available to a Low-Income

Household and other requirements of 24 C.F.R. 92.252 during the Affordability Period. Two (2) Units, at a minimum, will be rented to and occupied by, or if vacant, available for rent and occupancy by (a) person(s) whose annual household income at the time of initial occupancy is not greater than fifty percent (50%), and seven (7) Units shall, at a minimum, be rented to and occupied by or, if vacant available for rent and occupancy by (a) person(s) whose annual household income at the time of initial occupancy is not greater than eighty (80%) of the most recent annual median income calculated and published HUD for the Fresno Metropolitan Statistical Area applicable to such household's size, and at an affordable rent consistent with the HOME Program regulations, for the Affordability Period except upon foreclosure or other transfer in lieu of foreclosure following default under a Deed of Trust. However, if at any time following a transfer by foreclosure or transfer in lieu of foreclosure or transfer in lieu of foreclosure, but still during the Affordability Period, the owner of record prior to the foreclosure or transfer in lieu of foreclosure, or any newly formed entity that includes such owner of record those whom such owner of record has or had business ties, obtained an ownership interest in the Project or the Property, the Affordability Period shall be revived according to its original terms. In the event DEVELOPER fails to comply with this section or the Affordability Period is not revived following transfer by foreclosure or transfer in lieu of foreclosure, the DEVELOPER shall return to the CITY all the HOME Funds disbursed to the DEVELOPER by the CITY.

4.16 Terminated Projects. The DEVELOPER understands and agrees that, if the Project is terminated before completion, either voluntarily or otherwise, such constitutes an ineligible activity and the CITY will not be required to provide any further HOME Program assistance funding to the Project and the CITY may seek available relief.

ARTICLE 5. PROPERTY MAINTENANCE

The DEVELOPER covenants and agrees to the following, for the entire term of the Agreement.

5.1 Adequate Repair and Maintenance. After rehabilitation of the Project, the DEVELOPER shall cause the maintenance the Project and Property to be in compliance with all applicable codes, laws, and ordinances.

5.2 Affordable Rental Housing. The DEVELOPER covenants and agrees that the Affordable Project shall constitute nine (9) affordable rental Units preserved as floating Low-Income Rental Housing (as provided at 24 C.F.R. 92.252) during the fifty-five (55) year affordability period. In the event the DEVELOPER fails to comply with the time period in which the Affordable Units constitute Affordable Housing, the CITY shall without waiver or limitation, be entitled to injunctive relief, as the DEVELOPER acknowledges that the damages are not adequate remedy at law for such breach.

5.3 Compliance with Environmental Laws. The DEVELOPER shall cause the Affordable Units to be in compliance with, and not to cause or permit the Project to be in violation of, any Hazardous Materials law, rule, regulation, ordinance, or statute. Although the CITY will utilize its employees and agents for regular inspection and testing of the eligible Property, the DEVELOPER agrees that, if the CITY has reasonable grounds to suspect any such violation, the DEVELOPER shall be entitled to thirty (30) days' notice and opportunity to cure such violation. If the suspected violation is not cured, the CITY shall

have the right to retain an independent consultant to inspect and test the eligible Property for such violation. If a violation is discovered, the DEVELOPER shall pay for the reasonable cost of the independent consultant.

Additionally, the DEVELOPER agrees:

A. That the CITY shall not be directly or indirectly responsible, obligated or liable with the inspection, testing, removal or abatement of asbestos or other hazardous or toxic chemicals, materials, substances, or wastes and that all cost, expense and liability for such work shall be and remain solely with the DEVELOPER;

B. Not to transport to, or from, the proposed Property, or use, generate, manufacture, produce, store, release, discharge, or dispose of on, under, or about the Property, or surrounding real estate, or transport to or from the project site, or surrounding real estate, any hazardous or toxic chemicals, materials, substance, or wastes or allow any person or entity to do so except in such amounts and under such terms and conditions permitted by applicable laws, rules, regulations, ordinances, and statutes;

C. To give prompt written notice to the CITY of the following:

1. Any proceeding or inquiry by any governmental authority with respect to the presence of any hazardous or toxic chemicals, materials, substance, or waste in or on the eligible Property or the surrounding real estate or the migration thereof from or to other property; and

2. All claims made or threatened by any third party against the DEVELOPER, or such properties relating to any loss or injury resulting from any hazardous or toxic chemicals, materials, substance, or waste; and

3. The DEVELOPER's discovery of any occurrence or condition on any real property adjoining or in the vicinity of such properties that would cause such properties or underlying or surrounding real estate or part thereof to be subject to any restrictions on the ownership, occupancy, transferability, or use of the property under any environmental law, rule, regulation, ordinance or statute; and

4. To indemnify, defend, and hold the CITY harmless from any and all claims, actions, causes of action, demand, judgments, damages, injuries, administrative orders, consent agreements, orders, liabilities, penalties, costs, expenses (including attorney's fees and expenses), and disputes of any kind whatsoever arising out of or relating to the DEVELOPER or any other party's use of release of any hazardous or toxic chemicals, materials, substance, or waste on the Property regardless of cause or origin, including any and all liability arising out of or relating to any investigation, site monitoring, containment, cleanup, removal, restoration, or related remedial work of any kind or nature.

5.4 Compliance With Laws. The DEVELOPER shall promptly and faithfully comply with, conform to and obey all present and future federal, state and local statutes, regulations, rules, ordinances and other legal requirements applicable by reason of this Agreement or otherwise to the Project including without limitation prevailing wage requirements. The DEVELOPER acknowledges that the use of HOME Funds subjects the

Project to extensive federal regulation and covenants and agrees that it shall comply with, conform to and obey (and take steps as are required of the DEVELOPER to enable the CITY to comply with, conform to and obey) all federal statues, regulations, rules and policies applicable to the Project.

5.5 Existence, Qualification, and Authority. The DEVELOPER shall provide to the CITY any evidence required or requested by the CITY to demonstrate the continuing existence, qualification, and authority of the DEVELOPER to execute this Agreement and to perform the acts necessary to carry out the Project.

5.6 Financial Statements and Audits. The DEVELOPER, as a subrecipient of federal financial assistance, is required to comply with the provisions of the Single Audit Act of 1984 (31 U.S.C. Sections 7501 et seq.), as amended. Annually, within one hundred and eighty (180) days following: 1) the end of fiscal year(s) in which the HOME Funds are disbursed hereunder, and 2) the end of fiscal year(s) in which this contract shall terminate, and otherwise upon the CITY's, written request during the term of this Agreement, the DEVELOPER, at its sole cost and expense shall submit to the CITY:

A. Audited annual financial statements that are current, signed, and prepared according to generally accepted accounting principles consistently applied (except as otherwise disclosed therein).

B. Audited Financial Statements covering the income and expenses, and the financial transactions for the Project during the prior fiscal year.

5.7 Inspection and Audit of Books, Records and Documents. The DEVELOPER shall be accountable to the CITY for all HOME Funds disbursed for the Project pursuant to this Agreement. Any duly authorized representative of the CITY or HUD shall, at all reasonable times, have access to and the right to inspect, copy, make excerpts or transcripts, audit, and examine all books of accounts, records, files and other papers or property, and other documents of the DEVELOPER pertaining to the Project or all matters covered in this Agreement and for up to six (6) years after the expiration or termination of this Agreement.

A. The DEVELOPER will maintain books and records for the Project using generally accepted accounting principles. The DEVELOPER agrees to maintain books and records that accurately and fully show the date, amount, purpose and payee of all expenditures financed with HOME Funds and to keep all invoices, receipts and other documents related to expenditures financed with HOME Funds for not less than six (6) years after the expiration or termination of the Agreement. Books and records must be kept accurate and current. For purposes of this section, "books, records and documents" include, without limitation; plans, drawings, specifications, ledgers, journals, statements, contracts/agreements, funding information, funding applications, purchase orders, invoices, loan documents, computer printouts, correspondence, memoranda, and electronically stored versions of the foregoing. This section shall survive the termination of this Agreement.

B. The CITY may audit any conditions relating to this Agreement at the CITY's expense, unless such audit shows a significant discrepancy in information reported

by the DEVELOPER in which case the DEVELOPER shall bear the cost of such audit. The DEVELOPER shall also comply with any applicable audit requirements of 24 C.F.R. 92.506. This section shall survive the termination of this Agreement.

C. The DEVELOPER will cooperate fully with the CITY and HUD in connection with any interim or final audit relating to the Project that may be performed relative to the performance of this Agreement.

5.8 Inspection of Property. Any duly authorized representative of the CITY or HUD shall, at all reasonable times, have access and the right to inspect the Property until completion of the Project and expiration of the applicable Affordability Period within seventy-two (72) hours' written notice, subject the rights of the tenants.

5.9 No Other Liens. The DEVELOPER shall not create or incur, or suffer to be created or incurred, or to exist, any additional mortgage, pledge, encumbrance, lien, charge, or other security interest of any kind on the eligible Property, other than those related to the Project's construction or pre-development loans in relation to the Project, consistent with the attached Budget, without the prior written consent of the CITY.

5.10 Nondiscrimination. The DEVELOPER shall comply with and cause any and all contractors and subcontractors to comply with any and all federal, state, and local laws with regard to illegal discrimination, and the DEVELOPER shall not illegally discriminate against any persons on account of race, religion, sex, family status, age, handicap, or place of national origin in its performance of this Agreement and the completion of the Project.

5.11 Ownership. Except as required in pursuit hereof, the DEVELOPER shall not sell, lease, transfer, assign or otherwise dispose ("Transfer") all or any material part of any interest it might hold in the Property or the Project without the prior written consent of the CITY, which consent shall not be unreasonably withheld or delayed. Transfer shall exclude the leasing of any single Unit in the Project.

A. The DEVELOPER shall request the City's written approval of the granting of the securing interest in the Property described in Section 5.9 above.

B. The DEVELOPER anticipates syndicating the low income housing tax credits that will be generated by the Project, which syndication will require the transfer of limited partnership interests. The CITY hereby approves the initial Transfer of the limited partner interest to affiliates of the investor, provided that in each instance the CITY is given prior written notice.

5.12 Payment of Liabilities. The DEVELOPER shall pay and discharge in the ordinary course of its business all material obligations and liabilities, the nonpayment of which could have a material or adverse impact on its financial condition, business, or assets or on the operation of the Project, except such obligations and liabilities that have been disclosed to the CITY in writing and are being contested in good faith.

5.13 Report of Events of Default. The DEVELOPER shall promptly give written notice to the CITY upon becoming aware of any Event of Default under this Agreement.

ARTICLE 6. DISBURSEMENT OF HOME FUNDS

Without waiver of limitation, the parties agree as follows, regarding HOME Funds:

6.1 Loan Commitments and Financing Plan. The DEVELOPER shall submit its most current Finance Plan for the Project to the CITY within the time frame provided in the Project Schedule. So long as the Finance Plan is consistent with the Budget, the CITY shall accept the Finance Plan. If the Finance Plan is not consistent with the Budget, then within thirty (30) days after receiving the Finance Plan, the CITY through its Development and Resource Management Department, Housing and Community Development Division, will review the Finance Plan and deliver notice to the DEVELOPER either approving or disapproving the Finance Plan in its reasonable discretion. If the CITY disapproves the Finance Plan, it will specify the reason for the disapproval and ask the DEVELOPER to provide any additional information the CITY may need to approve the Finance Plan. The failure of the CITY to send notice within such thirty (30) day time period shall be deemed an approval of the Finance Plan.

6.2 Use of HOME Funds. The DEVELOPER warrants, covenants and agrees with the CITY that it shall request HOME Funds only for reimbursement of eligible costs incurred as identified in the attached Budget, attached hereto as EXHIBIT "C", including costs allowable under 24 C.F.R. 92.206, aggregating not more than One Million Five Hundred Thousand dollars and 00/100 ($1,500,000.00). The CITY's obligation shall in no event exceed the HOME Funds amount specified in this Agreement.

A. If any such Funds shall be determined to have been requested and/or used by the DEVELOPER for costs other than for eligible rehabilitation reimbursement costs, and subject to the notice and cure provisions of Section 10.2 hereunder, an equal amount from non-public funds shall become immediately due and payable by the DEVELOPER to the CITY; provided, however, that the DEVELOPER shall, subject to its full cooperation with the CITY, be entitled to participate in any opportunity to remedy, contest, or appeal such determination.

B. In the event HOME Funds are requested to reimburse Eligible Costs which subsequently lose eligibility as Eligible Costs, the DEVELOPER shall immediately return such HOME Funds to the CITY.

C. The CITY will disburse HOME Funds, only to the DEVELOPER through proper invoicing costs of the Project as provided in this Article 6.

6.3 Conditions Precedent to Disbursement. The CITY shall not be obligated to make or authorize any disbursements of HOME Funds unless the following conditions are satisfied:

A. There exists no Event of Default as provided in Article 10, nor any act, failure, omission or condition that with the passage of time or the giving of notice or both would constitute an Event of Default.

B. The DEVELOPER has submitted the Finance Plan to the CITY, and if required, the CITY has approved the Finance Plan.

C. The CITY has approved the requested reimbursement of eligible Project costs.

D. The DEVELOPER has obtained insurance coverage and delivered to the City evidence of insurance as required in Article 9.

E. The DEVELOPER is current with its compliance of reporting requirements set forth in this Agreement.

F. The DEVELOPER has provided the CITY with a written request for HOME Funds (provided by the CITY), for reimbursement of eligible Project costs, and detailing such Eligible Costs applicable to the request.

G. The CITY has received certification required by Section 6.5 of this Agreement.

H. The CITY has received, and continues to the have the right to disburse, HOME Funds.

6.4 Requests for Disbursement of HOME Funds. The DEVELOPER shall request reimbursement of HOME Funds using the CITY's Request for Reimbursement of Funds form. The DEVELOPER shall only request a maximum of One Million Five Hundred Thousand dollars and 00/100 ($1,500,000.00) in HOME Program assistance for Project rehabilitation costs. All requests for HOME Funds reimbursement shall be accompanied with the Certification required by Section 6.6 of this Agreement and demonstrate they are in compliance with the requirements set forth in CPD 98.2 for "floating" Units.

6.5 DEVELOPER Certification. The DEVELOPER shall submit to the CITY a written certification that, as of the date of the Request for Reimbursement ("Certification"):

A. The representations and warranties contained in or incorporated by reference in this Agreement continue to be true, complete and accurate in material respects;

B. The DEVELOPER has carried out all of its obligations and is in compliance with all the obligations or covenants specified in this Agreement, to the extent that such obligations or covenants are required to have been carried out or are applicable at the time of the request for the Reimbursement;

C. The DEVELOPER has not committed or suffered an act, event, occurrence, or circumstance that constitutes an Event of Default or that with the passage of time or giving of notice or both would constitute an Event of Default; and

D. The Disbursement requested will be used solely for reimbursement of Eligible Costs identified in this Agreement and must by supported by the itemized obligations that have been properly incurred and are properly chargeable in connection with the Project.

6.6 Disbursement of Funds. The disbursement of HOME Program Loan Funds

shall occur within the normal course of CITY business (approximately thirty (30) days) after the CITY receives the Certification and to the extent of annually allocated and available HOME Funds.

ARTICLE 7. REHABILITATION OF PROJECT

Without waiver of limitation, the parties agree as follows:

7.1 Meeting Regarding HOME Program Processes and Procedures. The CITY will schedule, and the DEVELOPER shall attend a meeting prior to rehabilitation with the CITY for the purpose of outlining the Project processes and procedures.

7.2 Commencement and Completion of Project. The DEVELOPER shall commence rehabilitation of the Project and, record a Notice of Completion of construction of the Project in accordance with the Project Schedule as identified in EXHIBIT "B".

7.3 Contracts and Subcontracts. Consistent with Section 5.3, all hazardous waste abatement, construction work and professional services for the Project shall be performed by persons or entities licensed or otherwise legally authorized to perform the applicable work or service in the State of California and the City of Fresno. The DEVELOPER shall provide the CITY with copies of all agreements it has entered into with any and all general contractors or subcontractors for this Project. The DEVELOPER shall require that each such general contractor agreement contain a provision whereby the party(ies) to the agreement, other than the DEVELOPER, agree to: (i) notify the CITY immediately of any event of default by the DEVELOPER thereunder, (ii) notify the CITY immediately of the filing of a mechanic's lien, (iii) notify the CITY immediately of termination or cancellation of the construction agreement on the Project, and (iv) provide the CITY, upon the CITY's request, an Estoppel Certificate certifying that the agreement is in full force and effect and the DEVELOPER is not in default thereunder. The DEVELOPER agrees to notify the CITY immediately of termination or cancellation of any such agreement(s), notice of filing of a mechanic's lien, or breach or default by other party(ies) thereto.

7.4 Damage to Property. To the extent consistent with the requirements of any permitted encumbrance, or as otherwise approved by the CITY, and subject to Article 9 of this Agreement, if any building or improvement constructed on the Property is damaged or destroyed by an insurable cause, the DEVELOPER shall, at its cost and expense, diligently undertake to repair or restore said buildings and improvements consistent with the original Plans and Specifications of the Project. Such work or repair within ninety (90) days after the insurance proceeds are made available to the DEVELOPER and shall be completed within two (2) years thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, the DEVELOPER shall use its best efforts to make up the deficiency.

7.5 Fees, Taxes and Other Levies. The DEVELOPER shall be responsible for payment of all fees, assessments, taxes, charges and levies imposed by any public authority or utility company with respect to the Property or the Project, and shall pay such charges prior to delinquency. However, the DEVELOPER shall not be required to pay and

discharge any such charge so long as: (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by the CITY, the DEVELOPER deposits with the CITY any funds or other forms of assurances that the CITY, in good faith, may determine from time to time are appropriate to protect the CITY from the consequences of the contest being unsuccessful. The DEVELOPER shall have the right to apply for and obtain an abatement and/or exemption of the Project from real property taxes in accordance with all applicable rules and regulations, including Section 214(g) of the California Revenue and Taxation Code.

7.6 Financing. The DEVELOPER shall promptly inform the CITY of any new financing or funding not included in the Budget for the Project, and the DEVELOPER shall provide the CITY with copies of all agreements with any and all funding sources for the Project. The DEVELOPER shall require each agreement with any and all funding sources not included in the Budget to contain a provision whereby the party(ies) to the agreement other than the DEVELOPER, if permitted by the party(ies) applicable rules and regulations, agree to notify the CITY immediately of any event of default by the DEVELOPER thereunder. Should the DEVELOPER not comply with all the obligations of this section, the loan shall become immediately due and payable as provided for in this Agreement. This Section shall survive expiration or termination of this Agreement.

7.7 Identification Signage. Before the start of rehabilitation, the DEVELOPER shall place a poster or sign, with a minimum four feet by four feet in size, identifying the City of Fresno Development and Resource Management Department, Housing and Community Development Division as a Project participant. The sign shall also include the CITY's Housing logo, as well as the Equal Housing Opportunity logo, as mandated by HUD. The font size shall be a minimum of 4 inches. The poster/sign shall be appropriately place, and shall remain in place throughout the Project construction.

7.8 Inspections. The DEVELOPER shall permit, facilitate, and require its contractors and consultants to permit and facilitate observation and inspection at the job site by the CITY and other public authorities during reasonable business hours, for the purpose of determining compliance with this Agreement, including without limitation those annual on-site inspections required of the CITY by 24 C.F.R. 92.504(d).

7.9 Utilities. The DEVELOPER shall be responsible, at its sole cost and expense, to determine the location of any utilities on the Property and to negotiate with the utility companies for, and to, relocate the utilities, if any, as necessary to complete the Project.

7.10 Insurance and Bonds. The DEVELOPER shall submit for CITY approval bonds, certificates and applicable endorsements for all insurance and bonds required by this Agreement in accordance with Article 9.

7.11 Mechanic's Liens and Stop Notices. If any claim of lien is filed against the Property or a stop notice affecting any financing, HOME Program Funds or funding sources for the Project is served on the CITY or any other third party in connection with the Project, the DEVELOPER shall, within twenty (20) days of such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to the CITY a surety bond in sufficient form and amount, or provide the CITY with other

assurance satisfactory to the CITY that the claim of lien or stop notice will be paid or discharged.

A. If the DEVELOPER fails to discharge, bond or otherwise satisfy the CITY with respect to any lien, encumbrance, charge or claim referred to in Section 7.11 above, then, in addition to any other right or remedy, the CITY may, but shall not be obligated to, discharge such lien, encumbrance, charge, or claim at the DEVELOPER's expense. Alternatively, the CITY may require the DEVELOPER to immediately deposit with the CITY, the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. The CITY may use such deposit to satisfy any claim or lien that is adversely determined against the DEVELOPER. The DEVELOPER hereby agrees to indemnify and hold the CITY harmless from liability for such liens, encumbrances, charges or claims together with all related costs and expenses.

7.12 Permits and Licenses. Upon the CITY's reasonable request, the DEVELOPER shall submit, for CITY approval, all the necessary permits and licenses required for Commencement of the rehabilitation of the Project. As the CITY may reasonably request, the DEVELOPER, at its sole cost and expense, shall provide to the CITY copies of any and all permit approvals and authorizations including plot plan, plat, zoning variances, sewer, building, and other permits required by governmental authorities other than the CITY in pursuit of the Project, and for its stated purposes in accordance with all applicable building, environmental, ecological, landmark, subdivision, zoning codes, laws, and regulations.

7.13 Plans and Scope of Work. Before Commencement of the rehabilitation of the Project, the DEVELOPER shall submit to the CITY, for its review and approval, the Plans and Scope of Work for the rehabilitation work. The DEVELOPER will perform rehabilitation of the Project in full conformance with the CITY-approved plans and scope of work thereto approved by the CITY. The DEVELOPER shall obtain the CITY's prior written approval for any modifications to the plans and scope of work.

7.14 Property Condition. The DEVELOPER shall maintain the Project and all improvements on site in a reasonably good condition and repair (and, as to landscaping, in a healthy condition), all according to the basic design and related plans, as amended from time to time. The DEVELOPER and those taking direction under the DEVELOPER shall: (i) maintain all on-site improvements according to all other applicable law, rules, governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials; (ii) keep the improvements free from graffiti; (iii) keep the Project Property free from any accumulation of debris or waste material; (iv) promptly make repairs and replacements to on-site improvements; and (v) promptly replace any dead, or diseased plants and/or landscaping (if any) with comparable materials.

7.15 Quality of Work. The DEVELOPER shall ensure that rehabilitation of the Project employs building materials of a quality suitable for the requirements of the Project. The DEVELOPER shall cause completion of the rehabilitation of the Project on the Property in full conformance with applicable local, state and federal laws, statutes, regulations, and building and housing codes.

7.16 Relocation. If and to the extent that the rehabilitation of the proposed Project

results in the permanent or temporary displacement of residential tenants, the DEVELOPER shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance and payment of monetary benefits. The DEVELOPER shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with said relocation laws.

7.17 Reporting Requirements. The DEVELOPER shall submit to the CITY the following Project reports:

A. From the date of execution of this Agreement, until issuance of the final Certificate of Completion, the DEVELOPER shall submit a Quarterly Report, in a form approved by the CITY, which will include, at a minimum, the following information: progress of the Project and affirmative marketing efforts. The Quarterly Reports are due fifteen (15) days after each March 31st, June 30th, September 30th, and December 31st, during said period.

B. Annually, beginning on the first day of the month following the CITY's issuance of the Certificate of Completion, and continuing until the termination of the Agreement, the DEVELOPER shall submit an Annual Report to the CITY, in a form approved by the CITY. The Annual Report shall include, at a minimum, the following information: occupancy of each Project Unit including the annual income and the household size, the date occupancy commenced, certification from an officer of the DEVELOPER that the Project is in compliance with the Affordability requirements, and such other information the CITY may be required by law to obtain. The DEVELOPER shall provide any additional information reasonably requested by the CITY.

C. Annually, beginning on the first day of the month following the CITY's issuance of the final Certificate of Completion, evidencing the rehabilitation of the Project, and continuing until the expiration of the Agreement, the DEVELOPER shall submit proof of insurance as required in Article 9.

7.18 Scheduling and Extension of Time; Unavoidable Delay in Performance. It shall be the responsibility of the DEVELOPER to coordinate and schedule the work to be performed so that the Commencement of the rehabilitation and issuance of the Notice of Completion will take place in accordance with the provisions of the Agreement and Project Schedule. The time for performance contained in the Project Schedule shall be automatically extended upon the following:

A. The time for performance of provisions of the Agreement by either party shall be extended for a period equal to the period of any delay directly affecting the Project or this Agreement which is caused by: war, insurrection, strike or other labor disputes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, suits filed by third parties concerning or arising out of this Agreement, or unseasonable weather conditions ("force majeure"). An extension of time for any of the above specified causes will be granted only if written notice by the party claiming such extension is sent to the other party within ten (10) calendar days from the date the affected party learns of the commencement of the cause and the resulting delay and such extension of time is

accepted by the other party in writing. In any event, the Project must be completed no later than one hundred eighty (180) calendar days after the scheduled completion date specified in this Agreement, notwithstanding any delay caused by that included in this section.

B. Any and all extensions hereunder shall be by mutual written agreement of the CITY's Housing and Community Development Division Manager and the DEVELOPER, shall not cumulatively exceed one hundred eighty (180) days.

7.19 Certificate of Completion. Upon completion of the Rehabilitation of the Project, the DEVELOPER shall submit to the CITY: 1) certification in writing to that the Project has been substantially rehabilitated in accordance with the plans and scope of work, approved by the CITY; 2) a recorded Notice of Completion; 3) a cost-certifying final budget where the DEVELOPER shall identify the actual costs of construction of the Project. This final cost-certification shall identify costs in line-item format, consistent with the Project Budget; 4) a request for a recorded Certification of Completion. Upon a determination by the CITY that the DEVELOPER is in compliance with all of the DEVELOPER's rehabilitation obligations, as specified in this Agreement, the CITY shall furnish, within thirty (30) calendar days of a written request by the DEVELOPER, a recordable Certificate of Completion for the Project in the form attached hereto as EXHIBIT "E". The CITY will not unreasonably withhold or delay furnishing the Certificate of Completion. If the CITY fails to provide the Certificate of Completion within the specified time, it shall provide the DEVELOPER a written statement indicating in what respects the DEVELOPER has failed to complete the Project in conformance with this Agreement or has otherwise failed to comply with the terms of this Agreement, and what measures the DEVELOPER will need to take or what standards it will need to meet in order to obtain the Certificate of Completion. Upon the DEVELOPER taking the specified measures and meeting the specified standards, the DEVELOPER will certify to the CITY in writing of such compliance and the CITY shall deliver the recordable Certificate of Completion to the DEVELOPER in accordance with the provisions of this section.

ARTICLE 8. OPERATIONS OF THE PROJECT

8.1 Operation of the Project. The DEVELOPER shall lease operate and/or manage the Project in full conformity with the terms of this Agreement.

8.2 Occupancy Requirements. Two (2) of the HOME-assisted Affordable Units shall be rented and occupied by, or if vacant, available for rental occupancy by those whose annual household income a the time of initial occupancy is not greater than fifty percent (50%) of the most recent annual median income, calculated and published by HUD for the Fresno Metropolitan Statistical Area, applicable to such household's size, and at an affordable rent consistent with the HOME Program regulations (as provided at 24 C.F.R. 92.252) for the term of this Agreement. Seven (7) if the HOME-assisted Affordable Units shall be rented and occupied by, or if vacant, available for rental occupancy by those whose annual household income at the time of initial occupancy is not greater than eighty percent (80%) of the most recent annual median income, calculated and published by HUD for the Fresno Metropolitan Statistical Area, applicable to such household's size, and at an affordable rent consistent with HOME Program regulations (as provided at 24 C.F.R. 92.252) for the term of the Agreement. The DEVELOPER shall comply with the income targeting requirements of 24 C.F.R 92.216.

8.3 Leasing the HOME Units. Before leasing any Affordable Units, the DEVELOPER shall submit its proposed form of lease agreement for the CITY's review and approval. The DEVELOPER covenants and agrees to utilize only leases that have been approved in advance by the CITY. The CITY shall respond to the DEVELOPER's submission of a sample lease agreement within thirty (30) days. Should the CITY not respond within thirty (30) days of the lease agreement submittal, the DEVELOPER shall be authorized to use the submitted sample lease agreement. Additionally, the DEVELOPER agrees not to terminate the tenancy or to refuse to renew or lease with a tenant of the Units assisted with HOME Funds except for serious or repeated violation of the terms and conditions of the lease agreement, for violation of applicable federal, state, or local law, or for other good cause. Any such termination or refusal to renew must be preceded by not less than thirty (30) days' written notice served by the DEVELOPER or its authorized management entity upon the tenant specifying the grounds for such action. The DEVELOPER agrees it shall annually report to the CITY the number of leases that were not renewed or terminated and the reason for such non-renewal or termination.

8.4 Lease of HOME Units Provisions. In addition to the requirements of 24 C.F.R. 92.253, the leases are subject to the following:

A. The DEVELOPER shall include in its Leases for the HOME-assisted Units, provisions which authorize the DEVELOPER to immediately terminate the tenancy of any Household of which one or more of its members misrepresented any fact material to the Household's qualification as a Very Low- or Low-Income Household. Each such lease agreement shall also provide that the Household is subject to annual certification, and that, if the Household's annual income increases above the applicable limits for Low-Income, such Household's rent may be subject to increase to the lesser of: 1) the amount payable by tenant under state or local law; or 2) thirty percent (30%) of the Household's actual adjusted monthly income, except that, consonant with the Act, tenants of HOME Funds-assisted units that have been allocated low income housing tax credits by a housing credit agency pursuant to section 42 of the internal Revenue Code of 1986 (26 U.S.C. 42) must pay rent governed by section 42.

8.5 Final Management Plan. Before leasing any Project Unit and at least sixty (60) calendar days prior to the rehabilitation Completion Date, the DEVELOPER shall submit to CITY for review and approval a plan for marketing and managing the Unit (hereinafter referred to as the "Final Management Plan"). The Final Management Plan shall address in detail how the DEVELOPER plans to market the availability of Units to prospective Low-Income tenants and how the DEVELOPER plans to certify the eligibility of potential household. The Final Management Plan shall also address how the DEVELOPER and/or management entity plans to manage and maintain the Affordable Units in accordance with HOME Program regulations at 92.251 Property Standards, and shall include appropriate financial information and documentation. The Final Management Plan shall contain detailed descriptions of policies and procedures with respect to tenant selections and evictions. Topics to be covered in these procedures shall include at a minimum the following:

- Interviewing procedures for prospective tenants;
- Previous rental history of tenant with references;
- Credit reports and checks;

- Criminal background checks;
- Deposit amounts, purpose, use and refund policy;
- Employment/Income verification;
- Occupancy restrictions;
- Income Limit;
- Equal Housing Opportunity Statement;
- Restrictions on use of the premises; and
- Tenant/Landlord dispute resolution procedures.

The Final Management Plan shall contain copies of all standardized forms associated with the above listed topics. The Final Management Plan shall include a form lease agreement that the DEVELOPER proposes to enter into with the Low-Income tenants. The DEVELOPER shall abide by the terms of this Final Management Plan, approved by the CITY, in marketing, managing and maintaining the Affordable Units.

8.4 Property Management. The DEVELOPER shall comply with the following:

A. Management Responsibilities. The DEVELOPER directly and/or through its designated management entity, is specifically responsible for all management functions with respect to the Project including, without limitation, the selection of tenants, certification and re-certification of Household size and income, evictions, collections of Rents and deposits, construction management, affirmative marketing, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items and security. The CITY shall have no responsibility for such management of the Project.

8.5 Maintenance and Security. The DEVELOPER shall at its own expense maintain the Project Unit in good condition, in good repair and in decent, safe, sanitary, habitable and tenantable living conditions for the benefit of Unit occupants. The DEVELOPER shall not commit or permit any waste on or to the Project, and shall prevent and/or rectify any physical deterioration of the Project. The DEVELOPER shall maintain the housing Units in conformance with all applicable federal, state and local laws, ordinances, codes and regulations, the Final Marketing Plan, and this Agreement.

8.6 Nondiscrimination. Nine (9) of the HOME-assisted Units shall be available for occupancy on a continuous basis to households who are income eligible. The DEVELOPER shall not illegally discriminate or segregate in the rehabilitated complex, the use, enjoyment, occupancy, conveyance of any part of the Project or Property on the basis of race, color, ancestry, national origin, religion, sex, age, marital status, family status, source of income/rental assistance subsidy, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), sexual orientation, or any other arbitrary basis. The DEVELOPER shall otherwise comply with all applicable local, State and federal laws concerning nondiscrimination in housing. Neither the DEVELOPER nor any person claiming under or through the DEVELOPER, shall establish or permit any such practice or practices of illegal discrimination or segregation with reference to the selection, location, number, use or occupancy of any Unit. All deeds or contracts made or entered into by the DEVELOPER as to the Units or Project, or portion thereof, shall contain covenants concerning nondiscrimination consistent with this section. The DEVELOPER shall include a statement in all advertisements, notices and signs for availability of Units for rent to the effect that the DEVELOPER is an Equal Housing Opportunity Provider.

A. Nothing in this section is intended to require the DEVELOPER to change the character, design, use or operation of the Project; or to require the DEVELOPER to obtain licenses or permits other than those required for the Project.

8.7 Rent Schedule and Utility Allowance. The DEVELOPER covenants and agrees not to charge rent to tenants for HOME Units in an amount which exceeds those rents prescribed to the Project as they associate with particular income and rent limitations levels as established annually by HUD, consistent with the HOME Program requirements applicable to the Affordable Units in the Fresno, California area, as established by HUD, and further covenants not to impose a monthly allowance for utility services to tenants of such Affordable Units in excess of an amount approved by HUD in accordance with 24 CFR 92.252. The DEVELOPER agrees to furnish to the CITY with a certificate setting forth the maximum monthly rentals for the HOME Units and the monthly allowances for utilities and services to be charged during any annual period until the expiration of the Affordability Period. The DEVELOPER shall reexamine the income of each tenant Household living in the Affordable Units at least annually.

ARTICLE 9. INSURANCE AND INDEMNITY AND BONDS

Without waiver of limitation, the parties agree as follows regarding DEVELOPER Insurance, Indemnity, and Bond Obligations:

9.1 Insurance Requirements. Throughout the life of this Agreement, DEVELOPER shall pay for and maintain in full force and effect all policies of insurance hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide, or (ii) authorized by the CITY's Risk Manager. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability of not less than the following:

$1,000,000 per occurrence for bodily injury and property damage
$1,000,000 per occurrence for personal and advertising injury
$2,000,000 aggregate for products and completed operations
$2,000,000 general aggregate applying separately to work performed under the Agreement

(ii) COMMERCIAL GENERAL LIABILITY insurance which shall be at as board as the most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, and include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1-Any Auto) with limits of liability of not less than $1,000,000 per accident for bodily injury

and property damage.

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYEE LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 diseased each employee.

(v) BUILDERS RISK (Course of Construction) insurance, obtained by the Developer or subcontractor in an amount equal to the completion value of the Project with no coinsurance penalty provisions. (Only required if the project includes new construction of a building; or renovation of, or addition to, an existing building.)

(vi) CONTRACTOR POLLUTION LIABILTY (Unless waived in writing by the City's Risk Manager or his/her designee, Pollution Liability is required, by the Developer or the Contractor for all environmental and water remediation work and for all work transporting fuel. Unless waived in writing by the City's Risk Manager or his/her designee, the Pollution Liability is also required for demolition, renovation, HVAC, plumbing or electrical (including, without limitation, lighting) work on any structure built prior to the year 1990) i insurance with limits of liability of not less than the following:

$1,000,000 per occurrence or claim
$2,000,000 general aggregate per annual policy period

In the event the DEVELOPER purchases an Umbrella or Excess insurance policy(ies) to meet the minimum limits of insurance set forth above, this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

In the event the DEVELOPER involves any lead-based, mold or asbestos environmental hazard, either the Automobile Liability insurance policy or the Pollution Liability insurance policy shall be endorsed to include Transportation Pollution Liability insurance covering materials to be transported by the DEVELOPER pursuant to the HOME Agreement.

In the event the DEVELOPER involves any lead-based environmental hazard (e.g., lead-based paint), the DEVELOPER's Pollution Liability insurance policy shall be endorsed to include coverage for lead based environmental hazards. In the event the DEVELOPER involves any asbestos environmental hazard (e.g., asbestos remediation), the DEVELOPER's Pollution Liability insurance policy shall be endorsed to include coverage for asbestos environmental hazards. In the event the HOME Agreement involves any mold environmental hazard (e.g., mold remediation), the Pollution Liability insurance policy shall be endorsed to include coverage for mold environmental hazards and "microbial matter including mold" within the definition of "Pollution" under the policy.

The DEVELOPER shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and the DEVELOPER shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be

declared to, and approved by, the CITY's Risk Manager or his/her designee. At the option of the CITY's Risk Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents and volunteers; or (ii) the DEVELOPER shall provide a financial guarantee, satisfactory to CITY's Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar day written notice has been given to CITY. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, the DEVELOPER shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, the DEVELOPER shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The Pollution Liability insurance policy shall be written on either an occurrence form, or a claims-made form. The General Liability, Automobile Liability and Pollution Liability insurance policies shall name CITY, its officers, officials, agents, employees and volunteers as an additional insured. All such policies of insurance shall be endorsed so the DEVELOPER's insurance shall be primary and no contribution shall be required of CITY. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents and volunteers. If the DEVELOPER maintains higher limits of liability than the minimums shown above, the CITY requires and shall be entitled to coverage for the higher limits of liability maintained by the DEVELOPER. The General Liability insurance policy shall also name the CITY, its officers, officials, agents, employees and volunteers as additional insureds for all ongoing and completed operations. The Builders Risk (Course of Construction) insurance policy shall be endorsed to name the CITY as loss payee. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers.

The DEVELOPER shall furnish CITY with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the CITY's Risk Manager or his/her designee before work commences. Upon request of CITY, the DEVELOPER shall immediately furnish CITY with a complete copy of any insurance policy required under this HOME Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

Claims-Made Policies - If any coverage required is written on a claims-made coverage form:

(i) The retroactive date must be shown, and must be before the effective date of the commencement of work by the DEVELOPER.

(ii) Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the work or termination of the HOME Agreement, whichever first occurs.
(iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the HOME Agreement, or work commencement date, the DEVELOPER must purchase extended reporting period coverage for a minimum of 5 years after completion of the work or termination of the HOME Agreement, whichever first occurs.
(iv) A copy of the claims reporting requirements must be submitted to CITY for review.
(v) These requirements shall survive expiration or termination of the HOME Agreement.

If at any time during the life of the HOME Agreement or any extension, the DEVELOPER, its contractor, or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this HOME Agreement shall be discontinued immediately, and all payments due or that become due to the DEVELOPER shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate the HOME Agreement. No action taken by CITY hereunder shall in any way relieve the DEVELOPER of its responsibilities under the HOME Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by CITY that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

The fact that insurance is obtained by the DEVELOPER shall not be deemed to release or diminish the liability of the DEVELOPER, including, without limitation, liability under the indemnity provisions of the HOME Agreement. The duty to indemnify the CITY shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the DEVELOPER. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the DEVELOPER, its principals, officers, agents, employees, persons under the supervision of the DEVELOPER, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

In the event of a partial or total destruction by the perils insured against of any or all of the work and/or materials herein provided for at any time prior to the final completion of the HOME Agreement and the final acceptance by the CITY of the work or materials to be performed or supplied thereunder, the DEVELOPER shall promptly reconstruct, repair, replace, or restore all work or materials so destroyed or injured at his/her sole cost and expense. Nothing herein provided for shall in any way excuse the DEVELOPER or his/her insurance company from the obligation of furnishing all the required materials and completing the work in full compliance with the terms of the HOME Agreement.

If the DEVELOPER should subcontract all or any portion of the services to be performed under the HOME Agreement, the DEVELOPER shall require each subcontractor to provide

insurance protection in favor of CITY, its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with the DEVELOPER and the CITY prior to the commencement of any work by the subcontractor.

A. The above described policies of insurance shall be endorsed to provide an unrestricted thirty (30) day written notice in favor of the CITY, of policy cancellation, change or reduction of coverage. In the event any policy is due to expire during the term of this Agreement, a new certificate evidencing renewal of such policy shall be provided not less than fifteen (15) days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation, change or reduction in coverage, DEVELOPER or its contractors, as the case may be, shall file with the CITY a certified copy of the new or renewal policy and certificates for such policy.

B. DEVELOPER shall furnish the CITY with the certificate(s) and applicable endorsements for ALL required insurance prior to the CITY's execution of this Agreement. DEVELOPER shall furnish the CITY with copies of the actual policies upon the request of the CITY at any time during the life of the Agreement or any extension.

At all times hereunder DEVELOPER shall maintain the required insurance in full force and effect.

9.2 Indemnity. DEVELOPER shall indemnify, hold harmless and defend the CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the CITY, DEVELOPER or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement. DEVELOPER's obligations under the preceding sentence shall apply regardless of whether the CITY or any of its officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active negligence or by the willful misconduct of the CITY or any of its officers, officials, employees, agents or volunteers.

A. This section shall survive termination or expiration of this Agreement.

9.3 Property Insurance. Upon acquisition of the property, the DEVELOPER shall pay for and maintain in full force and effect, throughout the remaining life of this Agreement, a policy(ies) of property insurance acceptable to the CITY, covering the Project premises, with limits reflective of the value of the Project premises upon issuance of the Certificate of Completion, or substantial completion of the Project referenced in this Agreement, including fire and Extended Comprehensive Exposure (ECE) coverage in an amount, form, substance, and quality as acceptable to the CITY's Risk Manager. The CITY shall be added by endorsement as a loss payee thereon.

9.4 Bond Obligations. The DEVELOPER or its General Contractor shall obtain, pay for and deliver good and sufficient payment and performance bonds along with a

Primary Obligee, Co-Obligee or Multiple Obligee Rider in a form acceptable to the CITY from a corporate surety, admitted by the California Insurance Commissioner to do business in the State of California and Treasury-listed, in a form satisfactory to the CITY and naming the CITY as Obligee.

A. The "Faithful Performance Bond" shall be at least equal to 100% of the DEVELOPER's estimated construction costs as reflected in the DEVELOPER's pro forma budget, attached hereto as EXHIBIT "C", to the guarantee faithful performance of the Project, within the time prescribed, in a manner satisfactory to the CITY, consistent with this Agreement, and that all material and workmanship will be free from original or developed defects.

B. The "Payment Bond" shall be at least equal to 100% of construction costs approved by the CITY to satisfy claims of material supplies and of mechanics and laborers employed for this Project. The bond shall be maintained by DEVELOPER in full force and effect until the Project is completed and until all claims for materials and labor are paid and as required by the applicable provisions of Chapter 7, Title 15, Part 4, Division 3 of the California Civil Code.

C. The "Material and Labor Bond" shall be at least equal to 100% of the DEVELOPER's estimated construction costs as reflected in the DEVELOPER's pro forma budget, attached hereto as EXHIBIT "C", to satisfy claims of material supplies and of mechanics and laborers employed for this Project. The bond shall be maintained by the DEVELOPER in full force and effect until the Project is completed, and until all claims for materials and labor are paid, released, or time barred, and shall otherwise comply with any applicable provision of the California Code.

D. In lieu of the bonds required above, the CITY, in its sole discretion, may accept from the DEVELOPER an Irrevocable Standby Letter of Credit issued with the CITY named as the sole beneficiary in the amounts(s) of the bonds required above. The Standby Letter of Credit is to be issued by a bank, and in the form, acceptable to the CITY. This Irrevocable Standby Letter of Credit shall be maintained by the DEVELOPER in full force and effect until the CITY is provided with a recorded Notice of Completion for the construction of the Project and shall be subject to and governed by the laws of the State of California.

ARTICLE 10. DEFAULT AND REMEDIES

10.1 Events of Default. Each of the following shall constitute an "Event of Default" for purposes of this Agreement after the cure period in Section 10.2 has expired without a cure:

A. The DEVELOPER's use of HOME Funds for costs other than Eligible Costs or for uses not permitted by the terms of this Agreement;

B. The DEVELOPER's Failure to obtain and maintain the insurance coverage required under this Agreement;

C. Except as otherwise provided in this Agreement, the failure of the DEVELOPER to punctually and properly perform any other covenant or agreement

contained in this Agreement including without limitation the following: (1) the DEVELOPER's substantial deviation in the Project scope of work specified in the Project Description as identified in this Agreement, without the CITY's prior written consent; (2) the DEVELOPER's use of defective or unauthorized materials or defective workmanship in pursuit of the Project; (3) the DEVELOPER's failure to commence or complete the Project, as specified in this Agreement, unless delay is permitted under Section 7.18 of this Agreement; (4) cessation of work on the Project for a period of more than fifteen (15) consecutive days (other than as provided at Section 7.18 of this Agreement) prior to submitting to the CITY, pursuant to Section 7.19, certification that the Project is complete; (5) any material adverse change in the condition of the DEVELOPER or the Project that gives the CITY reasonable cause to believe that the Project cannot be completed by the Completion Date according to the terms of this Agreement; (6) the DEVELOPER's failure to remedy any deficiencies in record keeping or failure to provide records to the CITY upon the CITY's request; (7) the DEVELOPER's failure to substantially comply with any federal, state or local laws or applicable CITY restrictions governing the Project, including but not limited to provisions of this Agreement pertaining to equal employment opportunity, nondiscrimination and lead-based paint;

D. Any representation, warranty, or certificate given or furnished by or on behalf of the DEVELOPER shall prove to be materially false as of the date of which the representation, warranty, or certification was given, or that the DEVELOPER concealed or failed to disclose a material fact to the CITY, provided, however, that if any representation, warranty, or certification that proves to be materially false is due merely to the DEVELOPER's inadvertence, the DEVELOPER shall have a thirty (30) day opportunity after written notice thereof to cause such representation, warranty, or certification to be true and complete in every respect;

E. The DEVELOPER shall file, or have filed against it, a petition of bankruptcy, insolvency, or similar law, state or federal, or shall file any petition or answer seeking, consenting to, or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief, and such petition shall not have been vacated within ninety (90) days; or shall be adjudicated bankrupt or insolvent, under any present or future statute, law, regulation, under state or federal law, and such judgment or decree is not vacated or set aside within ninety (90) days;

F. The DEVELOPER's failure, inability or admission in writing of its inability to pay its debts as they become due or the DEVELOPER assignment for the benefit of creditors;

G. A receiver, trustee, or liquidator shall be appointed for the DEVELOPER or any substantial part of the DEVELOPER's assets or properties, and not be removed within ten (10) days;

H. The failure of the DEVELOPER's to cause completion of the Project prior to the completion date identified in EXHIBIT "B".

I. The DEVELOPER's breach of any other material condition, covenant, warranty, promise or representation contained in this Agreement not otherwise identified within this Section;

J. Any substantial or continuous breach by the DEVELOPER of any material obligation owned by the DEVELOPER imposed by any other agreement with respect to the financing, of the Project, whether or not the CITY is a party to such agreement after expiration of all notice and cure periods contained within such document.

10.2 Notice of Default and Opportunity to Cure. The CITY shall give written notice to the DEVELOPER of any Event of Default by specifying: (1) the nature of the event or deficiency giving rise to the default; (2) the action required to cure the deficiency, if any action to cure is possible, and (3) a date, which shall not be less than the lesser of any time period provided in this Agreement, any time period provided for in the notice, or thirty (30) calendar days from the date of the notice, by which such deficiency must be cured, provided that if the specified deficiency or default cannot reasonably be cured within the specified time, with the CITY's written consent, the DEVELOPER shall have an additional reasonable period to cure so long as it commences cure within the specified time and thereafter diligently pursues the cure in good faith. The CITY acknowledges and agrees that the DEVELOPER shall have the right to cure any defaults hereunder and that notice and cure rights hereunder shall extend to any and all partners of the DEVELOPER that are previously identified in writing delivered to the CITY in the manner provided in this Agreement.

10.3 Remedies Upon an Event of Default. Upon the happening of an Event of Default and a failure to cure said Event of Default within the time specified, the CITY's obligation to disburse HOME Funds shall terminate. The CITY may also at its option and without notice institute any action, suit, or other proceeding in law, in equity or otherwise, which it shall deem necessary or proper for the protection of its interests and may without limitation proceed with any or all of the following remedies in any order or combination that the CITY may choose in its sole discretion:

A. Terminate this Agreement immediately upon written notice to the DEVELOPER;

B. Bring an action in equitable relief: (1) seeking specific performance of the terms and conditions of this Agreement, and/or (2) enjoining, abating or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief; and

C. Pursue any other remedy allowed by law or in equity or under this Agreement.

ARTICLE 11. GENERAL PROVISIONS

Without waiver of limitation, the parties agree that the following general provisions shall apply in the performance hereof:

11.1 Amendments. No modification or amendment of any provision of this Agreement shall be effective unless made in writing and signed by the parties hereto. The CITY recognizes that other Project funders and equity investors may require revisions to the Loan Documents to be consistent with their funding and investing requirements. The CITY agrees to reasonably consider and negotiate as to any reasonable amendments to

this Agreement to address such requirements, subject to any necessary City Council approval and approval as to form by the City Attorney.

11.2 Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party will be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

11.3 Binding on All Successors and Assigns. Unless otherwise expressly provided in this Agreement, all the terms and provisions of this Agreement shall be binding on and inure to the benefit of the parties hereto, and their respective heirs, successors, assigns, and legal representatives.

11.4 Counterparts. This Agreement may be executed in counterparts, each of which when executed and delivered will be deemed an original, and all of which together will constitute one instrument. The execution of this Agreement by any party hereto will not become effective until counterparts hereof have been executed by all parties hereto.

11.5 Disclaimer of Relationship. Nothing contained in this Agreement, nor any act of the CITY or of the DEVELOPER, or of any other person, shall in and by itself be deemed or construed by any person to create any relationship of third party beneficiary, or of principal and agent, of limited or general partnership, or of joint venture.

11.6 Discretionary Governmental Actions. Certain planning, land use, zoning and other permits and public actions required in connection with the Project including, without limitation, the approval of this Agreement, the environmental review and analysis under NEPA, CEAQ or any other statute, and other transactions contemplated by this Agreement are discretionary government actions. Nothing in this Agreement obligates the CITY or any other governmental entity to grant final approval of any matter described herein. Such actions are legislative, quasi-judicial, or otherwise discretionary in nature. The CITY cannot take action with respect to such matters before completing the environmental assessment of the Project under NEPA, CEQA and any other applicable statutes. The CITY cannot and does not commit in advance that it will give final approval to any matter. The CITY shall not be liable, in contract, law or equity, to the DEVELOPER or any of its executors, administrators, transferees, successors-in-interest or assigns for any failure of any governmental entity to grant approval on any matter subject to discretionary approval.

11.7 Effective Date. This Agreement shall be effective upon the Parties' complete execution following City Council approval.

11.8 Entire Agreement. This Agreement represents the entire and integrated agreement of the parties with respect to the subject matter hereof. This Agreement supersedes all prior negotiations, representations or agreements, either written or oral.

11.9 Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

11.10 Expenses Incurred Upon Event of Default. The DEVELOPER shall reimburse the CITY for all reasonable expenses and costs of collection and enforcement, including

reasonable attorney's fees, incurred by the CITY as a result of one or more Events of Default by the DEVELOPER under this Agreement.

11.11 Governing Law and Venue. Except to the extent preempted by applicable federal law, the laws of the State of California shall govern all aspects of this Agreement, including execution, interpretation, performance, and enforcement. Venue for filing any action to enforce or interpret this Agreement will be Fresno, California.

11.12 Headings. The headings of the articles, sections, and paragraphs used in this Agreement are for convenience only and shall not be read or construed to affect the meaning or construction of any provision.

11.13 Interpretation. This Agreement in its final form is the result of the combined efforts of the parties. Any ambiguity will not be construed in favor or against any party, but rather by construing the terms in accordance with their generally accepted meaning.

11.14 No Assignment or Succession. The DEVELOPER shall not sell, lease, transfer, assign or otherwise dispose of all or a material part of any interest it might hold in the Property without the prior written consent of the CITY, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, upon prior written notice to the CITY, the DEVELOPER shall be permitted to assign its rights and obligation under this Agreement with respond to the Project to the Partnership without the CITY's consent.

11.15 No Third-Party Beneficiary. No contractor, subcontractor, mechanic, materialman, laborer, vendor, or other person hired or retained by the DEVELOPER shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement, but each such person shall be deemed to have agreed: (a) that they shall look to the DEVELOPER as their sole source of recovery if not paid, and (b) except as otherwise agreed to by the CITY and any such person in writing, they may not enter any claim or bring any such action against the CITY under any circumstances. Except as provided by law, or as otherwise agreed to in writing between the CITY and such person, each such person shall be deemed to have waived in writing all right to seek redress from the CITY under any circumstances whatsoever.

11.16 No Waiver. Neither failure nor delay on the part of the CITY in exercising any right under this Agreement shall operate as a waiver of such right, nor shall any single or partial exercise of any such right preclude any further exercise thereof or the exercise of any other right. No waiver of any provision of this Agreement or consent to any departure by the DEVELOPER therefrom shall be effective unless the same shall be in writing, signed on behalf of the CITY by a duly authorized officer thereof, and the same shall be effective only in the specific instance for which it is given. No notice to or demand on the DEVELOPER in any case shall entitle the DEVELOPER to any other or further notices or demands in similar or other circumstances, or constitute a waiver of any of the CITY's right to take other or further action in any circumstances without notice or demand.

11.17 Nonreliance. The DEVELOPER hereby acknowledges having obtained such independent legal or other advice as it has deemed necessary and declares that in no manner has it relied on the CITY, it agents, employees or attorneys in entering into this Agreement.

11.18 Notice. Any notice to be given to either party under the terms of this Agreement shall be given by certified United States mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties.

If to the CITY: City of Fresno
Development and Resource Management Department
Housing and Community Development Division
Attn.: Division Manager
2600 Fresno Street, Room 3070
Fresno, CA 93721-3605

If to DEVELOPER: Housing Authority of the City of Fresno
Attn.: Executive Director
1331 Fulton Mall
Fresno, CA 93721

11.19 Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement will control.

11.20 Recording of Documents. The DEVELOPER agrees to cooperate with the CITY and execute any documents required, promptly upon the CITY's request, the Deed of Trust, and any other documents/instruments that the CITY requires to be recorded, in the Official Records of Fresno County, California, consistent with this Agreement.

11.21 Remedies Cumulative. All powers and remedies given by this Agreement shall be cumulative and in addition to those otherwise provided by law.

11.22 Severability. The invalidity, illegality, or un-enforceability of any one or more of the provisions of this Agreement shall not affect the validity, legality, or enforceability of the remaining provisions hereof or thereof.

///
///
///

IN WITNESS WHEREOF, the parties have executed this Agreement in Fresno, California, the day and year first above written.

CITY OF FRESNO, a Municipal Corporation

By: _____ Date: 9/23/13
Bruce Rudd, City Manager
(Attach notary certificate of acknowledgment)

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: Cindy Bruer
Deputy

Date: 9/23/13

APPROVED AS TO FORM:
DOUG T. SLOAN
City Attorney

By: Tracy N Parvanian
Tracy Parvanian, Deputy City Attorney

Date: 9-17-13

Southeast Fresno RAD, LP, a California limited partnership

By: Tracewell Hanrahan Date: 9/16/13
Name: Tracewell Hanrahan
Title: Chief Administrative Officer
of the Housing Authority of the City of Fresno, California, the Sole Member and Manager of Southeast Fresno RAD AGP, LLC, as administrative general partner
(Attach notary certificate of acknowledgment)

Attachments:

EXHIBIT A: PROPERTY DESCRIPTION

EXHIBIT B: PROJECT DESCRIPTION AND SCHEDULE

EXHIBIT C: PROJECT BUDGET

EXHIBIT D: 55-YEAR CASH FLOW STATEMENT

EXHIBIT E: EXEMPLAR CERTIFICATION OF COMPLETION

EXHIBIT F: EXEMPLAR PROMISSORY NOTE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno

On 9-23-13 (Date) before me, Erica Castaneda, Notary Public (Here Insert Name and Title of the Officer),

personally appeared Bruce Rudd (Name(s) of Signer(s)),

ERICA CASTANEDA
Commission # 2008360
Notary Public - California
Fresno County
My Comm. Expires Mar 22, 2017

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Erica Castaneda
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: HOME Agreement - Cedar Courts Apts & Inyo Terrace Apts.

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	RIGHT THUMBPRINT OF SIGNER — Top of thumb here

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Item #5907

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Fresno

On 9-16-2013 (Date) before me, Erica Castaneda, Notary Public (Here Insert Name and Title of the Officer),

personally appeared Tracewell Hanrahan (Name(s) of Signer(s))

ERICA CASTANEDA
Commission # 2000360
Notary Public - California
Fresno County
My Comm. Expires Mar 22, 2017

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her/~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Erica Castaneda
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: HOME Agreement - Cedar Courts & Inyo Terrace

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	RIGHT THUMBPRINT OF SIGNER — Top of thumb here

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EXHIBIT "A" - LEGAL DESCRIPTION

The Property is located at 4216 E. Hamilton Avenue, Fresno, CA 93702.

Real property in the City of Fresno, County of Fresno, State of California, described as follows:

LOTS 7, 8, 9, 10, 16, 17 AND THE EAST HALF OF LOT 18 OF GORDONDALE, ACCORDING TO THE MAP RECORDED IN BOOK 8 OF PLATS, PAGE 45 IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA.

EXCEPTING THEREFROM THE WEST 10 FEET OF SAID LOT 7 CONVEYED TO THE COUNTY OF FRESNO, BY GRANT DEED RECORDED JUNE 13, 1967 IN BOOK 5448, PAGE 173 OF OFFICIAL RECORDS OF FRESNO COUNTY.

APN: 471-211-01T, 471-212-01t and portion of 471-220-01T

The Property is located at 510 S. Peach Avenue, Fresno, CA 93727.

Real property in the City of Fresno, County of Fresno, State of California, described as follows:

PARCEL B OF PARCEL MAP NO. 77-54 ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 27 PAGE 85 OF PARCEL MAPS, RECORDS OF SAID COUNTY.

APN: 463-050-22

EXHIBIT "B" - PROJECT DESCRIPTION AND SCHEDULE

I. PROJECT DESCRIPTION

The Project consists of the rehabilitation and related on-site improvements of the Cedar Court Apartments located at 4216 E. Hamilton Avenue, Fresno, CA 93702 and the Inyo Terrace Apartments located at 510 S. Peach Avenue, Fresno, CA 93727.

The Apartment complexes consist of one hundred ninety-three (193) affordable housing units of which two units are reserved for on-site property managers. Of the one hundred and ninety-three (193) units, nine (9) units will be reserved as floating HOME-assisted units for an affordability period of fifty-five (55) years.

The scope of rehabilitation work is attached for each apartment complex.

HOME-FUNDED UNITS

% of Median	Unit
50% or less	2
80% or less	7
Totals	9

HOME funds will be made available by the CITY for payment of HOME eligible costs not to exceed the lesser of One Million Five Hundred Thousand dollars and 00/100 ($1,500,000.00), the aggregate HOME Program per unit cap (24 C.F.R. 92.250) for the nine (9) HOME-assisted Units as determined by the CITY, as needed, for HOME eligible project rehabilitation costs.

II. PROJECT SCHEDULE

A. Commencement of Rehabilitation: December 1, 2013

B. Completion of Rehabilitation: August 13, 2015

C. Stabilize Occupancy: November 1, 2015

SCOPE OF REHABILITATION WORK

NCK

Cedar Courts and Inyo Terrace Apartments

-Increasing residential square footage by a total of 25,129 sq. ft.
    -Adding second bathroom for 3 BR units with only 1 bathroom
    -Adding extra closet, living room, and or bedroom space to enhance livability
-5% of units ADA compliant
-All new flooring
-All new roofing
-All new painting
-All new bathroom fixtures
-25%+ increase in energy efficiency through replacement of windows, insulation, cooling systems, and lighting
-New water heaters at 124 units (remaining water heaters recently replaced)
-Expanding counters with additional kitchen storage
-All new washers and dryers
-All new dishwashers
-All new exterior and interior doors
-All new hardscape patios in back of units
-New exterior color palette for units

Community Building
-Doubling size of existing community building to 6,648sf
-Welcome lobby for guests and residents
-Enhanced multi-purpose rooms and kitchens
-New computer rooms
-New playrooms
-Offices for on-site staff

Landscape
-New landscape for combined site acreage of 20 acres
-Combination of turf and drought-resistant landscaping
-New, comprehensive irrigation system
-Landscaping creates variety of spaces on site, including spaces that units can personalize, shared spaces between a cluster of units, and several common spaces
-New children's play equipment
-New outdoor charcoal barbeques and seating

EXHIBIT "C" - PROJECT BUDGET

	Total Development Costs	Residential Total	Funding Sources			
			HOME	Housing Authority	Seller Financing	LIHTC Equity
Acquisition Costs:						
Improvements	$6,075,000	$6,075,000			$6,075,000	
Land	$1,802,000	$1,802,000			$902,000	$900,000
Closing, Title & Recording Costs						
Other: Appraisal						
SUBTOTAL	$7,877,000	$7,877,000			$6,977,000	$900,000
Construction						
Basic Construction Contract	$13,734,915	$13,734,915	$1,500,000			$12,234,915
Contractor Ins.	$75,000	$75,000				$75,000
Contractor's Overhead & Profit	$1,483,053	$1,483,053				$1,483,053
General Conditions	$247,175	$247,175				$247,175
Prevailing Wage	$125,000	$125,000				$125,000
Contingency	$1,373,492	$1,373,492				$1,373,492
SUBTOTAL	$17,038,635	$17,038,635	$1,500,000			$15,538,635
Development						
Soft Cost Contingency	$275,000	$275,000				$275,000
Architect/Engineer	$1,295,380	$1,295,380				$1,295,380
Environmental Assessment	$75,000	$75,000				$75,000
Legal	$215,000	$215,000				$215,000
Developer Fee	$2,000,000	$2,000,000				$2,000,000
Furnishing	$325,000	$325,000				$325,000
SUBTOTAL	$4,185,380	$4,185,380				$4,185,380
Other Development						
TCAC fees	$144,685	$144,685		$144,685		
Insurance	$120,000	$120,000		$120,000		
Relocation	$1,158,000	$1,158,000		$324,006		$833,994
Consulting	$100,000	$100,000		$100,000		
Permits, Fees & Hookups	$400,000	$400,000		$400,000		
Lender Inspections	$5,000	$5,000		$5,000		
Title Recording	$65,000	$65,000		$65,000		
Construction Loan Fees	$410,190	$410,190		$410,190		
Construction Interest	$1,325,700	$1,325,700		$1,325,700		
Physical Needs Assessment	$43,269	$43,269		$43,269		
Taxes	$100,000	$100,000		$100,000		
Capitalized Rent Subsidy	$125,000	$125,000		$125,000		
Marketing/Leasing Expenses	$75,000	$75,000		$75,000		
Market Study	$20,000	$20,000		$20,000		
Operating Reserves	$317,150	$317,150		$317,150		
Replacement Reserves:	$25,000	$25,000		$25,000		
SUBTOTAL	$4,433,994	$4,433,994		$3,600,000		$833,994
Total Development Costs	$33,535,009	$33,535,009	$1,500,000	$3,600,000	$6,977,000	$21,458,009

EXHIBIT "D" – 55-YEAR CASH FLOW STATEMENT

Fresno RAD: Cedar Courts & Inyo Terrace - 55 YEAR CASH FLOW ANALYSIS

INCOME FROM HOUSING UNITS	Inflation	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13
Schedule Rental Income	2.5%	$ 1,512,828	$ 1,550,649	$ 1,589,415	$ 1,629,150	$ 1,669,879	$ 1,711,626	$ 1,754,417	$ 1,798,277	$ 1,843,234	$ 1,889,315	$ 1,936,548	$ 1,984,961	$ 2,034,585
Draw on Reserve														
GROSS POTENTIAL INCOME - HOUSING		$ 1,512,828	$ 1,550,649	$ 1,589,415	$ 1,629,150	$ 1,669,879	$ 1,711,626	$ 1,754,417	$ 1,798,277	$ 1,843,234	$ 1,889,315	$ 1,936,548	$ 1,984,961	$ 2,034,585
VACANCY ASSUMPTIONS														
Vacancy Loss	-5.0%	$ (75,641)	$ (77,532)	$ (79,471)	$ (81,458)	$ (83,494)	$ (85,581)	$ (87,721)	$ (89,914)	$ (92,162)	$ (94,466)	$ (96,827)	$ (99,248)	$ (101,729)
EFFECTIVE GROSS INCOME		$ 1,437,187	$ 1,473,116	$ 1,509,944	$ 1,547,693	$ 1,586,385	$ 1,626,045	$ 1,666,696	$ 1,708,363	$ 1,751,072	$ 1,794,849	$ 1,839,720	$ 1,885,713	$ 1,932,856
OPERATING EXPENSES & RESERVE DEPOSITS														
Operating Expenses	3.5%	$ 1,110,387	$ 1,149,251	$ 1,189,474	$ 1,231,106	$ 1,274,195	$ 1,318,791	$ 1,364,949	$ 1,412,722	$ 1,462,168	$ 1,513,344	$ 1,566,311	$ 1,621,131	$ 1,677,871
Replacement Reserve		$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900
TOTAL EXPENSES & RESERVES		$ 1,168,287	$ 1,207,151	$ 1,247,374	$ 1,289,006	$ 1,332,095	$ 1,376,691	$ 1,422,849	$ 1,470,622	$ 1,520,068	$ 1,571,244	$ 1,624,211	$ 1,679,031	$ 1,735,771
NET OPERATING INCOME		$ 268,900	$ 265,966	$ 262,570	$ 258,687	$ 254,290	$ 249,353	$ 243,847	$ 237,741	$ 231,005	$ 223,606	$ 215,510	$ 206,682	$ 197,085
HARD DEBT SERVICE														
Bank Loan (1st Lien)			$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
CASH FLOW AVAILABLE FOR SOFT DEBT		$ 268,900	$ 265,966	$ 262,570	$ 258,687	$ 254,290	$ 249,353	$ 243,847	$ 237,741	$ 231,005	$ 223,606	$ 215,510	$ 206,682	$ 197,085
SOFT DEBT SERVICE														
Fresno HA Seller Financing (2nd Lien)	$ 7,877,000	156,008	154,306	152,336	150,083	147,532	144,668	141,473	137,931	134,023	129,730	125,033	119,911	114,343
Fresno HA (2nd Lien)	$ 3,600,000	71,300	70,522	69,622	68,592	67,426	66,117	64,657	63,038	61,252	59,290	57,143	54,803	52,258
HRFC (2nd Lien)	$ 600,000	11,883	11,754	11,604	11,432	11,238	11,020	10,776	10,506	10,209	9,882	9,524	9,134	8,710
City of Fresno (3rd Lien)	$ 1,500,000	29,708	29,384	29,009	28,580	28,094	27,549	26,940	26,266	25,522	24,704	23,810	22,834	21,774
HARD DEBT SERVICE COVERAGE RATIO		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Fresno RAD: Cedar Courts & Inyo Terrace

INCOME FROM HOUSING UNITS	Inflation	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	Year 21	Year 22	Year 23	Year 24
Schedule Rental Income	2.5%	$ 2,085,450	$ 2,137,586	$ 2,191,026	$ 2,245,802	$ 2,301,947	$ 2,359,495	$ 2,418,483	$ 2,478,945	$ 2,540,918	$ 2,604,441	$ 2,669,552
Draw on Reserve												
GROSS POTENTIAL INCOME - HOUSING		$ 2,085,450	$ 2,137,586	$ 2,191,026	$ 2,245,802	$ 2,301,947	$ 2,359,495	$ 2,418,483	$ 2,478,945	$ 2,540,918	$ 2,604,441	$ 2,669,552
VACANCY ASSUMPTIONS												
Vacancy Loss	-5.0%	$ (104,273)	$ (106,879)	$ (109,551)	$ (112,290)	$ (115,097)	$ (117,975)	$ (120,924)	$ (123,947)	$ (127,046)	$ (130,222)	$ (133,478)
EFFECTIVE GROSS INCOME		$ 1,981,178	$ 2,030,707	$ 2,081,475	$ 2,133,512	$ 2,186,849	$ 2,241,521	$ 2,297,559	$ 2,354,998	$ 2,413,873	$ 2,474,219	$ 2,536,075
OPERATING EXPENSES & RESERVE DEPOSITS												
Operating Expenses	3.5%	$ 1,736,596	$ 1,797,377	$ 1,860,286	$ 1,925,396	$ 1,992,784	$ 2,062,532	$ 2,134,720	$ 2,209,436	$ 2,286,766	$ 2,366,803	$ 2,449,641
Replacement Reserve		$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900
TOTAL EXPENSES & RESERVES		$ 1,794,496	$ 1,855,277	$ 1,918,186	$ 1,983,296	$ 2,050,684	$ 2,120,432	$ 2,192,620	$ 2,267,336	$ 2,344,666	$ 2,424,703	$ 2,507,541
NET OPERATING INCOME		$ 186,681	$ 175,430	$ 163,289	$ 150,216	$ 136,165	$ 121,089	$ 104,938	$ 87,662	$ 69,207	$ 49,517	$ 28,534
HARD DEBT SERVICE												
Bank Loan (1st Lien)		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
CASH FLOW AVAILABLE FOR SOFT DEBT		$ 186,681	$ 175,430	$ 163,289	$ 150,216	$ 136,165	$ 121,089	$ 104,938	$ 87,662	$ 69,207	$ 49,517	$ 28,534
SOFT DEBT SERVICE												
Fresno HA Seller Financing (2nd Lien)	$ 7,877,000	108,307	101,779	94,736	87,151	78,999	70,252	60,882	50,859	40,152	28,728	16,555
Fresno HA (2nd Lien)	$ 3,600,000	49,499	46,516	43,297	39,830	36,105	32,107	27,825	23,244	18,350	13,130	7,566
HRFC (2nd Lien)	$ 600,000	8,250	7,753	7,216	6,638	6,017	5,351	4,637	3,874	3,058	2,188	1,261
City of Fresno (3rd Lien)	$ 1,500,000	20,625	19,382	18,040	16,596	15,044	13,378	11,594	9,685	7,646	5,471	3,152
HARD DEBT SERVICE COVERAGE RATIO		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Fresno RAD: Cedar Courts & Inyo Terrace

(Project will be refinanced in Year 30)

INCOME FROM HOUSING UNITS	Inflation	Year 25	Year 26	Year 27	Year 28	Year 29	Year 30	Year 31	Year 32	Year 33	Year 34	Year 35
Schedule Rental Income	2.5%	$ 2,736,291	$ 2,804,699	$ 2,874,816	$ 2,946,686	$ 3,020,354	$ 3,095,862	$ 3,173,259	$ 3,252,590	$ 3,333,905	$ 3,417,253	$ 3,502,684
Draw on Reserve			$ 17,553	$ 42,785	$ 69,567	$ 97,969	$ 128,065					
GROSS POTENTIAL INCOME - HOUSING		$ 2,736,291	$ 2,822,252	$ 2,917,601	$ 3,016,253	$ 3,118,323	$ 3,223,927	$ 3,173,259	$ 3,252,590	$ 3,333,905	$ 3,417,253	$ 3,502,684
VACANCY ASSUMPTIONS												
Vacancy Loss	-5.0%	$ (136,815)	$ (140,235)	$ (143,741)	$ (147,334)	$ (151,018)	$ (154,793)	$ (158,663)	$ (162,630)	$ (166,695)	$ (170,863)	$ (175,134)
EFFECTIVE GROSS INCOME		$ 2,599,477	$ 2,682,017	$ 2,773,860	$ 2,868,919	$ 2,967,305	$ 3,069,134	$ 3,014,596	$ 3,089,961	$ 3,167,210	$ 3,246,390	$ 3,327,550
OPERATING EXPENSES & RESERVE DEPOSITS												
Operating Expenses	3.5%	$ 2,535,378	$ 2,624,117	$ 2,715,961	$ 2,811,019	$ 2,909,405	$ 3,011,234	$ 3,116,627	$ 3,225,709	$ 3,338,609	$ 3,455,460	$ 3,576,401
Replacement Reserve		$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900
TOTAL EXPENSES & RESERVES		$ 2,593,278	$ 2,682,017	$ 2,773,861	$ 2,868,919	$ 2,967,305	$ 3,069,134	$ 3,174,527	$ 3,283,609	$ 3,396,509	$ 3,513,360	$ 3,634,301
NET OPERATING INCOME		$ 6,198	$ 0	$ (0)	$ (0)	$ 0	$ 0	$ (159,931)	$ (193,648)	$ (229,299)	$ (266,970)	$ (306,751)
HARD DEBT SERVICE												
Bank Loan (1st Lien)		$ -	$ -	$ -	$ -	$ -	$ -					
CASH FLOW AVAILABLE FOR SOFT DEBT		$ 6,198	$ 0	$ (0)	$ (0)	$ 0	$ 0	$ (159,931)	$ (193,648)	$ (229,299)	$ (266,970)	$ (306,751)
SOFT DEBT SERVICE												
Fresno HA Seller Financing (2nd Lien)	$ 7,877,000	3,596	0	0	0	0	0	0	0	0	0	0
Fresno HA (2nd Lien)	$ 3,600,000	1,644	0	0	0	0	0	0	0	0	0	0
HRFC (2nd Lien)	$ 600,000	274	0	0	0	0	0	0	0	0	0	0
City of Fresno (3rd Lien)	$ 1,500,000	685	0	0	0	0	0	0	0	0	0	0
HARD DEBT SERVICE COVERAGE RATIO		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Fresno RAD: Cedar Courts & Inyo Terrace

INCOME FROM HOUSING UNITS	Inflation	Year 36	Year 37	Year 38	Year 39	Year 40	Year 41	Year 42	Year 43	Year 44	Year 45	Year 46
Schedule Rental Income	2.5%	$ 3,590,251	$ 3,680,008	$ 3,772,008	$ 3,866,308	$ 3,962,966	$ 4,062,040	$ 4,163,591	$ 4,267,681	$ 4,374,373	$ 4,483,732	$ 4,595,825
Draw on Reserve												
GROSS POTENTIAL INCOME - HOUSING		$ 3,590,251	$ 3,680,008	$ 3,772,008	$ 3,866,308	$ 3,962,966	$ 4,062,040	$ 4,163,591	$ 4,267,681	$ 4,374,373	$ 4,483,732	$ 4,595,825
VACANCY ASSUMPTIONS												
Vacancy Loss	-5.0%	$ (179,513)	$ (184,000)	$ (188,600)	$ (193,315)	$ (198,148)	$ (203,102)	$ (208,180)	$ (213,384)	$ (218,719)	$ (224,187)	$ (229,791)
EFFECTIVE GROSS INCOME		$ 3,410,739	$ 3,496,007	$ 3,583,407	$ 3,672,993	$ 3,764,817	$ 3,858,938	$ 3,955,411	$ 4,054,296	$ 4,155,654	$ 4,259,545	$ 4,366,034
OPERATING EXPENSES & RESERVE DEPOSITS												
Operating Expenses	3.5%	$ 3,701,575	$ 3,831,131	$ 3,965,220	$ 4,104,003	$ 4,247,643	$ 4,396,311	$ 4,550,181	$ 4,709,438	$ 4,874,268	$ 5,044,867	$ 5,221,438
Replacement Reserve		$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900
TOTAL EXPENSES & RESERVES		$ 3,759,475	$ 3,889,031	$ 4,023,120	$ 4,161,903	$ 4,305,543	$ 4,454,211	$ 4,608,081	$ 4,767,338	$ 4,932,168	$ 5,102,767	$ 5,279,338
NET OPERATING INCOME		$ (348,737)	$ (393,023)	$ (439,713)	$ (488,910)	$ (540,726)	$ (595,273)	$ (652,670)	$ (713,041)	$ (776,514)	$ (843,222)	$ (913,304)
HARD DEBT SERVICE												
Bank Loan (1st Lien)												
CASH FLOW AVAILABLE FOR SOFT DEBT		$ (348,737)	$ (393,023)	$ (439,713)	$ (488,910)	$ (540,726)	$ (595,273)	$ (652,670)	$ (713,041)	$ (776,514)	$ (843,222)	$ (913,304)
SOFT DEBT SERVICE												
Fresno HA Seller Financing (2nd Lien)	$ 7,877,000	0	0	0	0	0	0	0	0	0	0	0
Fresno HA (2nd Lien)	$ 3,600,000	0	0	0	0	0	0	0	0	0	0	0
HRFC (2nd Lien)	$ 600,000	0	0	0	0	0	0	0	0	0	0	0
City of Fresno (3rd Lien)	$ 1,500,000	0	0	0	0	0	0	0	0	0	0	0
HARD DEBT SERVICE COVERAGE RATIO		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Fresno RAD: Cedar Courts & Inyo Terrace

INCOME FROM HOUSING UNITS	Inflation	Year 47	Year 48	Year 49	Year 50	Year 51	Year 52	Year 53	Year 54	Year 55
Schedule Rental Income	2.5%	$ 4,710,721	$ 4,828,489	$ 4,949,201	$ 5,072,931	$ 5,199,754	$ 5,329,748	$ 5,462,992	$ 5,599,567	$ 5,739,556
Draw on Reserve										
GROSS POTENTIAL INCOME - HOUSING		$ 4,710,721	$ 4,828,489	$ 4,949,201	$ 5,072,931	$ 5,199,754	$ 5,329,748	$ 5,462,992	$ 5,599,567	$ 5,739,556
VACANCY ASSUMPTIONS										
Vacancy Loss	-5.0%	$ (235,536)	$ (241,424)	$ (247,460)	$ (253,647)	$ (259,988)	$ (266,487)	$ (273,150)	$ (279,978)	$ (286,978)
EFFECTIVE GROSS INCOME		$ 4,475,185	$ 4,587,064	$ 4,701,741	$ 4,819,284	$ 4,939,767	$ 5,063,261	$ 5,189,842	$ 5,319,588	$ 5,452,578
OPERATING EXPENSES & RESERVE DEPOSITS										
Operating Expenses	3.5%	$ 5,404,188	$ 5,593,335	$ 5,789,101	$ 5,991,720	$ 6,201,430	$ 6,418,480	$ 6,643,127	$ 6,875,636	$ 7,116,284
Replacement Reserve		$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900	$ 57,900
TOTAL EXPENSES & RESERVES		$ 5,462,088	$ 5,651,235	$ 5,847,001	$ 6,049,620	$ 6,259,330	$ 6,476,380	$ 6,701,027	$ 6,933,536	$ 7,174,184
NET OPERATING INCOME		$ (986,903)	$ (1,064,170)	$ (1,145,260)	$ (1,230,335)	$ (1,319,564)	$ (1,413,119)	$ (1,511,185)	$ (1,613,948)	$ (1,721,606)
HARD DEBT SERVICE										
Bank Loan (1st Lien)										
CASH FLOW AVAILABLE FOR SOFT DEBT		$ (986,903)	$ (1,064,170)	$ (1,145,260)	$ (1,230,335)	$ (1,319,564)	$ (1,413,119)	$ (1,511,185)	$ (1,613,948)	$ (1,721,606)
SOFT DEBT SERVICE										
Fresno HA Seller Financing (2nd Lien)	$ 7,877,000	0	0	0	0	0	0	0	0	0
Fresno HA (2nd Lien)	$ 3,600,000	0	0	0	0	0	0	0	0	0
HRFC (2nd Lien)	$ 600,000	0	0	0	0	0	0	0	0	0
City of Fresno (3rd Lien)	$ 1,500,000	0	0	0	0	0	0	0	0	0
HARD DEBT SERVICE COVERAGE RATIO		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

EXHIBIT "E": CERTIFICATE OF COMPLETION

Recorded at the Request of
and When Recorded Return to:

City of Fresno
Development and Resource Management Dept.
Housing and Community Development Division
2600 Fresno Street, Room 3070
Fresno, CA 93721-3605

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

This Certificate of Completion is recorded at the request and for the benefit of the City of Fresno and is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

A.P.N.: 471-211-01T, 471-212-01T, and portion of 471-220-01T, and 463-050-22

City of Fresno

By: _____
Bruce Rudd, City Manager

Date: _____

Certificate of Completion

A.P.N.: 471-211-01T, 471-212-01T, and portion of 471-220-01T, and 463-050-22T

Recitals:

A. By a HOME Investment Partnerships Program Agreement dated _____, 2013, ("HOME Agreement") between the City of Fresno, a municipal corporation ("CITY"), Southeast Fresno RAD, LP ("DEVELOPER"), the DEVELOPER agreed to rehabilitate the Cedar Court Apartments and Inyo Terrace Apartment, grounds and related on-site improvements upon the Property described in EXHIBIT "A" attached to the HOME Agreement, and made part hereof by this reference (the "Property"), with assistance of HOME Funds while meeting the affordable housing, income targeting and other requirements of 24 C.F.R. 92 according to the terms and conditions of the HOME Agreement and Loan Documents and other documents/instruments referenced therein.

B. The HOME Agreement or a memorandum of it was recorded on _____, as Instrument No._____ in the Official Records of Fresno County, California.

C. Under the terms of the HOME Agreement, after the DEVELOPER completes the Project, the DEVELOPER may ask the CITY to record a Certificate of Completion.

D. The DEVELOPER has asked the CITY to furnish the DEVELOPER with a recordable Certificate of Completion.

E. The CITY's issuance of this Certificate of Completion is conclusive evidence that the DEVELOPER has completed the Project as set forth in the HOME Agreement.

NOW THEREFORE:

1. The CITY certifies that the DEVELOPER commenced rehabilitation of the Project on _____, 2014 and completed rehabilitation of the Project on_____ 2015, and has done so in full compliance with the HOME Agreement.

2. This Certificate of Completion is not evidence of the DEVELOPER's compliance with, or satisfaction of, any obligation to any mortgage or security interest holder, or any mortgage or security interest insurer, securing money lent to finance work on the Property or Project, or any part of the Property or Project.

3. This Certificate of Completion is not a notice of completion as referred to in California Civil Code Section 3093.

4. Nothing contained herein modifies any provision of the HOME Agreement.

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IN WITNESS WHEREOF, CITY has executed this Certificate of Completion as of this _____ day of _____, 20__.

CITY OF FRESNO

By:_____ Date: _____
Bruce Rudd, City Manager
(Attach notary certificate of acknowledgment)

ATTEST:
YVONNE SPENCE, CMC
CITY CLERK

By:_____
Deputy

Date:_____

APPROVED AS TO FORM:
DOUG T. SLOAN
CITY ATTORNEY

By:_____
Tracy Parvanian, Deputy City Attorney

Date:_____

Southeast Fresno RAD, LP, a California limited partnership

By:_____ Date:_____
Name: Preston Prince
Title: Executive Director
(Attach notary certificate of acknowledgment)

EXHIBIT "F" - PROMISSORY NOTE

DO NOT DESTROY THIS NOTE: When paid, this note, must be surrendered to Borrower for Cancellation.

PROMISSORY NOTE
Secured by Deed of Trust

Loan Amount: $1,500,000 Date: _____
Fresno, California

Promise to Pay. For value received, the undersigned, Housing Authority of the City of Fresno, a body corporate and politic ("Borrower"), promises to pay to the order of the City of Fresno, a California municipal corporation ("Lender"), the sum of One Million Five Hundred Thousand dollars and 00/100 ($1,500,000.00), to the extent that such funds are loaned to Borrower, with interest on the unpaid principal balance running from the date of disbursement with simple interest at the rate of 4% annually in accordance with the HOME Investment Partnerships Agreement dated _____, 2013, entered into between the Lender and BORROWER, ("Agreement"), with all principal and interest due and payable on or before the earlier of (i) Borrower's uncured default under the Agreement with respect to the Project, and (ii) fifty-five (55) years from the date of this Note, ("Maturity Date"), on which date the unpaid balance of principal with unpaid interest thereon shall be due and payable, along with attorney's fees and costs of collection, and without relief from valuation and appraisement laws.

This is a Residual Receipts Note. Principal and interest payments equal to 10% of annual Residual Receipts, to the extent that Residual Receipts exist and are itemized in audited financial statements supplied to Lender with each payment hereunder, shall be due one hundred eighty (180) days following the end of the year in which the Project converts to its permanent phase under the Financing, and said payment continues each successive year thereafter until the Maturity Date, upon which all principal and interest shall be due and payable (prorated amounts to be paid for the first and last year of the Note). Any failure to make a payment required hereunder within ten (10) days after such payments are due shall constitute a default under the Agreement with respect to the Project and this Note. It shall not be a default hereunder if no payment was made because Project Residual Receipts did not exist for any particular year. Additionally any failure to timely submit to Lender audited financial statements within thirty (30) days after such financial statements are due shall constitute a default under the Agreement with respect to the Project and Note.

Residual Receipts means in each operating year after the conversion of the Project financing to its permanent phase, the sum of: (i) all cash received by the Project from (A) rents, lease payments, and all sources generally considered in the apartment industry to be "other income" (which does not include payments for optional services provided by Borrower), (B) payments from HUD under a Housing Assistance Program Section 8 Contract to the Project, if any, and excluding (a) tenant security or other deposits required by law to be segregated, and (b) interest on reserves not available for distribution, and (ii) the net proceeds of any insurance (including rental interruption insurance), other than fire and extended coverage and title insurance, to the extent not reinvested, less the sum of: (i) the Project related annual fee payable to the investment limited partner and the annual fees payable to the nonprofit managing general partner; (ii) all payments on account of any loans (including unpaid principal and accrued reasonable interest) made for the benefit of the Project by the Borrowers pursuant to the terms of any equity investor limited partnership agreement, and; (iii) payments towards the deferred developer fee (including repayment of loans or capital contributions made by a partner to a partnership specifically for the purpose of paying the deferred developer fee);

(iv) contributions to any prudent and reasonable cash reserves for working capital, capital expenditures, repairs, replacements and anticipated expenditures, in such amounts as may be reasonably required by the lenders to the Project for the operation of the Project not to exceed the amount required by the Project's permanent lender, annually adjusted in proportion to the average increase of the following indices (a) the United States Bureau of Labor Statistics for Hourly Wage Rates of all workers in manufacturing, and (b) of all Commodity Wholesale Prices, said indices shall be re-defined to the mutual satisfaction of the parties in the event of change in form and basis of indices, all increases shall use the indices for calendar year 2010 as their base; (v) the payment of principal and interest, and any associated fees, expenses, and costs, with respect to the Financing; (vi) payments made to the investors which are required to reimburse the investors a portion of its capital contribution in relation to the Project when there is a shortfall in funding initially promised pursuant to any equity investor or partnership agreement; (vii) the payment of any deferred development costs.

Operating Expenses means actual, reasonable and customary (for comparable quality, newly constructed rental housing developments in Fresno County) costs, fees and expenses directly incurred, paid, and attributable to the operation, maintenance and management of the Affordable Project in a calendar year, including, without limitation: painting, cleaning, repairs, alterations, landscaping, utilities, refuse removal, certificates, permits and licenses, sewer charges, real and personal property taxes, assessments, insurance, security, advertising and promotion, janitorial services, cleaning and building supplies, purchase, repair, servicing and installation of appliances, equipment, fixtures and furnishings which are not paid from the capital replacement reserve, fees and expenses of property management and common area expenses, fees and expenses of accountants, attorneys and other professionals, the cost of social services, repayment of any completion or operating loans including any and all deferred contractor's fees per the Budget, made to Borrower, its successors or assigns, and other actual operating costs and capital costs which are incurred and paid by Borrower, but which are not paid from reserve accounts.

All capitalized terms used in this Note, unless otherwise defined, will have the respective meanings specified in the Agreement. In addition, as used in this Note, the following terms will have the following meanings:

> Business Day means any day other than Saturday, Sunday, or public holiday or the equivalent for banks generally under the laws of California. Whenever any payment to be made under this Note is stated to be due on a day other than a Business Day, that payment may be made on the next succeeding Business Day.
>
> Note Maturity Date means fifty-five (55) years from the date the permanent loan converts.

This Note, and any extensions or renewals hereof, is secured by a Deed of Trust and Assignment of Rents, on real estate in Fresno County, California, that provides for acceleration upon stated events, dated as of the same date as this Note, and executed in favor of and delivered to the Lender ("Deed of Trust"), insured as a 3rd position lien on the Property.

Time is of the essence. It will be a default under this Note if Borrower defaults under the Agreement, any other Loan Document with the Lender, or this Note and such default continues beyond the notice and cure period as provided in such documents. In the event of a default by Borrower with respect to any sum payable under this Note and the failure to cure such default within ten (10) days, the Borrower shall pay a late charge equal to the lesser of two percent (2%) of any outstanding payment or the maximum amount allowed by law. All payments collected shall be

applied first to payment of any costs, fees or other charges due under this Note or any other Loan Documents then to the interest and then to principal balance. On the occurrence of an uncured default or on the occurrence of any other event that under the terms of the Loan Documents give rise to the right to accelerate the balance of the indebtedness, then, at the option of Lender, this Note or any notes or other instruments that may be taken in renewal or extension of all or any part of the indebtedness will immediately become due without any further presentment, demand, protest, or notice of any kind. Lender acknowledges and agrees that it shall send notice of any default hereunder to the limited partners of Borrower and shall accept any cure offered by such limited partners on the same basis as it would accept a cure from Borrower.

The indebtedness evidenced by this Note may, at the option of the Borrower, be prepaid in whole or in part without penalty. Lender will apply all the prepayments first to the payment of any costs, fees, late charges, or other charges due under this Note or under any of the other Loan Documents and then to the interest and then to the principal balance.

All Loan payments are payable in lawful money of the United States of America at any place that Lender or the legal holders of this Note may, from time to time, in writing designate.

Borrower agrees to pay all costs including, without limitation, reasonable attorney fees, incurred by the holder of this Note in the successful enforcement of payment, whether or not suit is filed, and including, without limitation, all costs, reasonable attorney fees, and expenses incurred by the holder of this Note in connection with any bankruptcy, reorganization, arrangement, or other similar proceedings involving the Borrower that in any way affects the exercise by the holder of this Note of its rights and remedies under this Note. All costs incurred by the holder of this Note in any action undertaken to obtain relief from the stay of bankruptcy statutes are specifically included in those costs and expenses to be paid by Borrower.

Any notice, demand, or request relating to any matter set forth herein shall be in writing and shall be given as provided in the Agreement.

No delay or omission of Lender in exercising any right or power arising in connection with any default will be construed as a waiver or as acquiescence, nor will any single or partial exercise preclude any further exercise. Lender may waive any of the conditions in this Note and no waiver will be deemed to be a waiver of Lender's rights under this Note, but rather will be deemed to have been made in pursuance of this Note and not in modification. No waiver of any default will be construed to be a waiver of or acquiescence in or consent to any preceding or subsequent default.

The Deed of Trust provides as follows:

> Except as provided herein or in the Agreement, if the Trustor/Grantor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the Beneficiary being first had and obtained, Beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any Note evidencing the same, immediately due and payable.

Lender may transfer this Note and deliver to the transferee all or any part of the Property then held by it as security under this Note, and the transferee will then become vested with all the powers and rights given to Lender; and Lender will then be forever relieved from any liability or

responsibility in the matter, but Lender will retain all rights and powers given by this Note with respect to Property not transferred.

If any one or more of the provisions in this Note is held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions will not in any way be affected or impaired. This Note will be binding on and inure to the benefit of Borrower, Lender, and their respective successors and assigns.

Borrower and Lender agree that this Note will be deemed to have been made under and will be governed by the laws of California in all respects, including matters of construction, validity, and performance, and that none of its terms or provisions may be waived, altered, modified, or amended except as Lender and Borrower may consent to in a writing duly signed by Borrower or Lender or its authorized agents.

This Note shall be nonrecourse to Borrower and all its constituent members and may be prepaid at any time without penalty. Neither Borrower nor any of its general and limited partners shall have any personal liability for repayment of the Loan. The sole recourse of the Lender under the Loan Documents for repayment of the Loan shall be the exercise of its rights against the Property pursuant to the Deed of Trust and Lender shall have no right to seek or recover any deficiency amount from Borrower or any partner of Borrower.

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IN WITNESS THEREOF, Borrower has caused this Promissory Note to be executed by its authorized agent as of the date and year first above written.

BORROWER
Southeast Fresno RAD, LP, a California limited partnership

By:_____ Date:_____
Name: Preston Prince
Title: Executive Director
(Attach notary certificate of acknowledgment)

EXHIBIT "G" - EXEMPLAR DEED OF TRUST

Recorded at the Request of
and When Recorded Return to:

City of Fresno
Development and Resource Management Dept.
Housing and Community Development Division
2600 Fresno Street, Room 3070
Fresno, CA 93721-3605

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

TITLE ORDER NO._____
ESCROW NO._____
APN NO. : 471-211-01T, 471-212-01, and portion of 471-220-01T, and 463-050-22T

DEED OF TRUST

THIS DEED OF TRUST ("Deed of Trust") made this ___ day of _____, 2013, by and between Southeast Fresno RAD, LP, a California limited partnership (herein "Borrower"), Placer Title Company, a California Corporation (herein "Trustee"), and the City of Fresno, a Municipal Corporation organized and existing under the laws of the State of California whose address is 2600 Fresno Street, Fresno, California 93721 (herein "Beneficiary" and "Lender").

Borrower, in consideration of the indebtedness herein recited and the trust herein created, does irrevocably grant and convey to Trustee, in trust, with power of sale, all Borrower's right, title, and interest now owned or hereafter acquired in the real property ("Land") known as 4216 E. Hamilton, Fresno, CA 93702 and 510 S. Peach Avenue, Fresno, CA 93727 in Fresno County, California and more particularly described in the Attached Exhibit A, incorporated by reference (Borrower agrees that any greater to the Land later acquired during the term of this Deed of Trust will be subject to this Deed of Trust), together with the rents, issues, and profits, subject however, to the right, power, and authority granted and conferred on Borrower in this Deed of Trust to collect and apply the rents, issues, and profits; and

Borrower also irrevocably grants, transfers, and assigns to Trustee, in trust, with power of sale, all of Borrower's right, title and interest now owned or later acquired to the following property (including the rights or interests pertaining to the property) located at the Property:

(1) All buildings ("Buildings") and improvements now or later on the land and all easements, rights, appurtenances, water and water rights, minerals and mineral rights; all machinery, equipment, appliances, and fixtures for the generation or distribution of air, water, heat, electricity, light, fuel, or refrigeration or for ventilating or sanitary purposes or for the exclusion of vermin or insects or for the removal of dust, refuse, or garbage; all wall safes, built-in furniture, and installations, window shades and blinds, light fixtures, fire hoses and brackets, screens, linoleum, carpets, furniture, furnishings, fixtures, plumbing, laundry tubs and trays, refrigerators, heating units, stoves, water heaters, incinerators, and communication systems and installations for which any Building is specially designed; all of these item, whether now or later installed, being declared to be for all purposes of this Deed of Trust a part of the Land, the specific enumerations in this Deed of Trust not excluding the general;

(2) The rents, issues, profits, and proceeds relating to the foregoing; and

(3) The Property to the extent not included on clauses (1) and (2) above.

TO SECURE, in order of priority that Beneficiary determines:

(1) Payment of the indebtedness evidenced by a note of Borrower of even date with this Deed of Trust in the principal amount of One Million Five Hundred Thousand dollars and 00/100 ($1,500,000.00) ("Note"), payable to Beneficiary or order, and all extensions, modifications, or renewals of that note;

(2) Payment of the interest on that indebtedness according to the terms of the Note;

(3) Payment of all other sums (with interest as provided herein) becoming due and payable to Beneficiary or Trustee pursuant to the terms of this Deed of Trust;

(4) Performance of every obligation contained in this Deed of Trust, the Note, the HOME Agreement dated the _____ day of _____, 2013, and its related documents, the Declaration of Restrictions dated the ___ day of _____, 2013, any instrument now or later evidencing or securing any indebtedness secured by this Deed of Trust, and any agreements, supplemental agreements, or other instruments of security executed by Borrower as of the same date of this Deed of Trust or at any time subsequent to the date of this Deed of Trust for the purpose of further securing any indebtedness amending this Deed of Trust or any instrument secured by this Deed of Trust (collectively the "Loan Documents"); and

(5) Payment of all other obligations owed by Borrower to Beneficiary that by their terms recite that they are secured by this Deed of Trust, including those incurred as primary obligor or as guarantor.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, and that the Property is unencumbered except for encumbrances of record. Borrower covenants that Borrower will forever warrant and will defend the grant made in this Deed of Trust against all claims and demands, subject to encumbrances of record. Borrower covenants that Borrower will maintain and preserve the lien of this Deed of Trust until all the indebtedness under the Note is paid in full.

Borrower represents and warrants to Beneficiary that as of the date of this Deed of Trust Borrower is a validly existing, and in good standing under the laws of the State of California and is qualified to do business in California; that Borrower has the requisite power and authority to own, develop, and operate the property; and that Borrower is in compliance with all laws, regulations, ordinances, and orders of public authorities applicable to it.

Borrower represents and warrants to Beneficiary that as of the date of this Deed of Trust the execution, delivery, and performance by the Borrower and the borrowings evidenced by the Note are within the power of the Borrower; have been duly authorized by all requisite corporate or partnership actions, as appropriate; has received all necessary governmental approvals; and will not violate any provision of law, any order of any court or agency of government, the charter documents of Borrower, or any indenture, agreement, or any other instrument to which Borrower is a party or by which Borrower or any of it property is bound, nor will they conflict with, result in a breach of, or constitute (with due notice and lapse of time) a default under any indenture, agreement, or other instrument, or result in the creation or imposition of any lien, charge, or encumbrance of any nature on any of the property or assets of Borrower, except as contemplated by the provisions of the Loan Documents; and each of the Loan Documents, when executed and delivered to Beneficiary, will constitute a valid obligation, enforceable in accordance with its terms.

Borrower represents and warrants to Beneficiary that as of the date of this Deed of Trust that the Property is not used principally for agricultural or grazing purposes; that Borrower is engaged in the development and operation of Improvements to the Property; and that the principal purpose of the Loan is the acquisition, development and/or the operation of the Improvements to the Property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal. Borrower shall promptly pay when due the principal indebtedness evidenced by the Note.

2. Hazard Insurance. Borrower, at its sole cost and expense, for the mutual benefit of Borrower and Beneficiary, shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require as set forth in the HOME Agreement referenced above.

   The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

   In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

   If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

3. Preservation and Maintenance of Property. Leaseholds; Condominiums; Planned Unit Developments. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust is on a leasehold. If this Deed of Trust is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents. Borrower shall not permit overcrowded conditions to exist as defined by the U.S. Department of Housing and Urban Development.

4. Protection of Lender's Security. If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorney's fees, and take such action as is necessary to protect Lender's interest. If Lender requires mortgage insurance as a condition of making the loan secured by this Deed of Trust, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable laws.

Any amounts disbursed by Lender pursuant to this Paragraph 5 shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 5 shall require Lender to incur any expense or take any action hereunder.

5. Inspection. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall provide Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.

7. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust be reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be waiver of or preclude the exercise of any such right of remedy.

8. Successors and Assignees Bound; Joint and Several Liability; Co-Signers. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to the respective successors and assignees of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. Any borrower who co-signs this Deed of Trust, but does not execute the Note, (a) is co-signing this Deed of Trust only to grant and convey that Borrower's interest in the Property of Trustee under the terms of this Deed of Trust, (b) is not personally liable on the Note or under this Deed of Trust or the Note, without that Borrower's consent and without releasing that Borrower or modifying this Deed of Trust as to that Borrower's interest in the Property.

9. Transferability. One of the inducements to Beneficiary for making the Loan is the identity of Borrower. The existence of any interest in the Property other than the interests of Borrower and Beneficiary and any encumbrance permitted in this Deed of Trust, even though subordinate to the security interest of Beneficiary, and the existence of any interest in Borrower other than those of the present owners, would impair the Property and the security interest of Beneficiary, and, therefore, except as provided herein or in the Loan Documents, Borrower will not sell, convey, assign, transfer, alienate, or otherwise dispose of its interest in the Property, either voluntarily or by operation of law, or agree to do so, without the prior written consent of Beneficiary. Consent to one transaction by Beneficiary will not be deemed a waiver of the right to require consent to further or successive transactions. If Borrower is a corporation, any sale, transfer, or disposition of fifty percent (50%) or more of the voting interest of Borrower or of any entity that directly or indirectly owns or controls Borrower, including, without limitation, the parent company of Borrower, and the parent company of the parent company of Borrower, will constitute a sale of the Property for purposes of this article. If Borrower is a partnership any change or addition of a general partner of Borrower, change of a partnership interest of Borrower, or sale, transfer, or disposition of fifty percent (50%) or more of the voting interest or partnership interest of any partner of Borrower or of any corporation, partnership or entity

that directly or indirectly owns or controls any partner of Borrower, including, without limitation, each parent company of a partner of Borrower and each parent company of any parent company of a partner of Borrower, will constitute a sale of the Property for purposes of this section. If Borrower is a limited liability company, any change of the manager or any sale, transfer or disposition of fifty percent (50%) or more of the partnership interests of Borrower , or disposition of fifty percent (50%) or more of the voting interest of Borrower or of any corporation, partnership or entity that directly or indirectly owns or controls any member of Borrower, including without limitations, each parent company of Borrower and each parent company of any parent company of a member of Borrower, will constitute a sale of the Property for purposes of this section. Any transaction in violation of this section will cause all Indebtedness, irrespective of the maturity dates, at the option of the Beneficiary and without demand or notice, immediately to become due, together with any prepayment premium in accordance with the terms of the Note except as prohibited by law.

10. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

11. Governing Law; Severability. The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Deed of Trust or if the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust and the Note are declared to be severable. As used herein, "costs", "expenses", and "attorney's fees" include all sums to the extent not prohibited by applicable law or limited herein.

12. Borrower's Copy. Borrower shall be furnished a conformed copy of the Note and of this Deed of Trust at the time of execution or after recordation thereof.

NON-CONFORMING COVENANTS. Borrower and Lender further covenant and agree as follows:

13. Acceleration; Remedies. Upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, the Note or the Program restrictions, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 10 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 13, including, but not limited to, reasonable attorney's fees. If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or

some part thereof is located. Lender or Trustee shall mail copies of such notice in the manner prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine.

Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorney's fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

14. Borrower's Right to Reinstate. Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Deed of Trust discontinued at any time prior to five days before sale of the Property pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of a judgment enforcing this Deed of Trust if: (a) Borrower pays Lender all sums which would be then due under this Deed of Trust and the Note had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Deed of Trust; (c) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreements of Borrower in paragraph 13 hereof, including but not limited to, reasonable attorney's fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

15. Nonrecourse. Borrower shall not have any personal liability for repayment of the loan. The sole recourse of the Lender under the Loan Documents for repayment of the Loan shall be the exercise of its rights against the Property.

16. Withdrawal, Removal and/or Replacement. General partner of the Borrower pursuant to the terms of a partnership agreement due to violation by a general partner of the terms of a partnership agreement, or a voluntary withdrawal from a partnership by a general partner, and any transfer of limited partnership interest or interests in the same, shall not constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the loan.

17. Lien of Deed of Trust. Beneficiary agrees that the lien of this Deed of Trust shall be subordinated to any extended low-income housing commitment (as such term is defined in Section (42(h)(6)(B) of the internal Revenue Code) (the "Extended Use Agreement") recorded against the Property, provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Deed of Trust or upon a transfer of the Property by instrument of lieu of foreclosure, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code, subject to the limitations upon evictions, terminations of tenancies and increases in gross rents of tenants of low-income units as provided in that Section.

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18. Assignment of Rent; Appointment of Receiver; Lender in Possession. As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 13 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

    Upon acceleration under paragraph 13 hereunder or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

19. Reconveyance. Upon payment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust, and all notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.

20. Substitute Trustee. Lender at lender's option, may from time to time, appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the Fresno County Recorder's Office. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Instrument is recorded and the name and address of the successor trustee. The successor trustee shall, without conveyance of the Property, succeed to all the title, powers and duties conferred upon the Trustee herein and by applicable law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.
21. Statement of Obligation. Lender may collect a fee not to exceed $50 for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.

22. Event of Default. Prior to declaring or taking any remedy permitted under Loan Documents, (where applicable) Borrower's limited partners shall have an additional period of not less than thirty (30) days to cure such alleged default. Notwithstanding the foregoing, in the case of a default that cannot with reasonable diligence be remedied or cured within thirty (30) days, Borrower's limited partners shall have such additional time as reasonably necessary to remedy or cure such default, but in no event more than ninety (90) days from the expiration of the initial thirty (30) day period above, and if the Borrower's limited partners reasonably believe that in order to cure such default, Borrower's limited partners must remove one or both of Borrower's general partners in order to cure such default, Borrower's limited partners shall have an additional (30) days following the effective date of such removal to cure such default. To the extent that there is a conflict between this paragraph 22 and any remedy permitted by the HOME Agreement, Loan Documents, or Loan, the terms of this paragraph 22 shall control.

    The following events are each an "Event of Default":

    (a) Default in the payment of any sum of principal or interest when due under the Note or any other sum due under the Loan Documents.

    (b) Failure to maintain insurance as provided in Section 2 hereof.

(c) The failure (without cure during the applicable period, if any, for cure) of any Borrower to observe, perform, or discharge any obligation, term, covenant, or condition of any of the Loan Documents, any agreement relating to the Property, or any agreement or instrument between any Loan Party and Beneficiary.

(d) The assignment by Borrower, as lessor or sublessor, as the case may be, of the rents or the income of the Property or any part of it (other than to Beneficiary) without first obtaining the written consent of Beneficiary.

(e) The following events:

(i) the filing of any claim or lien against the Property or any party of it, whether or not the lien is prior to this Deed of Trust, and the continued maintenance of the claim or lien for a period of thirty (30) days without discharge, satisfaction, or adequate bonding in accordance with the terms of this Deed of Trust;

(ii) the existence of any interest in the Property other than those of Borrower, Beneficiary, any tenants of Borrower, and any one listed in a title exception approved by Beneficiary in writing; or

(iii) the sale, hypothecation, conveyance, or other disposition of the Property except with the express written approval of Beneficiary, any of which will be an Event of Default because Borrower's obligation to own and operate the Property is one of the inducements to Beneficiary to make the Loan;

(f) Default under any agreement to which Borrower is a party, which agreement relates to the borrowing of money by Borrower from Beneficiary.

(g) Any presentation or warranty made by any Loan Party or any other Person under this Deed of Trust or in, under, or pursuant to the Loan Documents, is false or misleading in any material respect as of the date on which the representation or warranty was made.

(h) Any of the Loan Documents, at any time after their respective execution and delivery and for any reason, cease to be in full force or are declared null and void, or the validity or enforceability is contested by Borrower or any stockholder or partner of Borrower, or Borrower denies that it has any or further liability or obligation under any of the Loan Documents to which it is a party.

If one or more Event of Default occurs and is continuing, then Beneficiary may declare all the Indebtedness to be due and the Indebtedness will become due without any further presentment, demand, protest, or notice of any kind, and Beneficiary may:

(i) in person, by agent, or by a receiver, and without regard to the adequacy of security, the solvency of Borrower, or the existence of waste, enter on and take possession of the Property or any party of it in its own name or in the name of Trustee, sue for or otherwise collect the rents, issues, and profits, and apply them, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon the Indebtedness, all in any order that Beneficiary many determine. The entering on and taking possession of the Property, the collection of rents, issues, and profits, and the application of them will not cure or waive any default or notice of default or invalidate any act done pursuant to the notice;

(ii) commence an action to foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages of real property;

(iii) deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause the Property to be sold, which notice Trustee or Beneficiary will cause to be filed for record;

(iv) with respect to any Personalty, proceed as to both the real and personal property in accordance with Beneficiary's rights and remedies in respect of the Land, or proceed to sell the Personalty separately and without regard to the Land in accordance with Beneficiary's rights and remedies; or

(v) exercise any of these remedies in combination or any other remedy at law or in equity.

24. Protection of Security.

If an Event of Default occurs and is continuing, Beneficiary or Trustee, without notice to or demand upon Borrower, and without releasing Borrower from any obligations or defaults may:

(a) enter on the Property in any manner and to any extent that either deems necessary to protect the security of this Deed of Trust;

(b) appear in and defend any action or proceeding purporting to affect, in any manner, the Obligations or the Indebtedness, the security of this Deed of Trust, or the rights or powers of Beneficiary or Trustee;

(c) pay, purchase, or compromise any encumbrance, charge, or lien that in the judgment of Beneficiary or Trustee is prior or superior to this deed of Trust; and

(d) pay expenses relating to the Property and its sale, employ counsel, and pay reasonable attorneys' fees.

Borrower agrees to repay on demand all sums expended by Trustee or Beneficiary pursuant to this section with interest at the Note Rate of Interest, and those sums, with interest, will be secured by this Deed of Trust.

25. Effect of Assignment.

The assignment rents as provided herein will not impose on Beneficiary any duty to produce rents, issues, or profits from the Property, or cause Beneficiary to be:

(a) a "mortgage-in-possession" for any purpose;

(b) responsible for performing any of the obligations of the lessor under any of the Leases; or

(c) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair, or control of the Property.

Beneficiary will not be liable to Borrower or any other party as a consequence of the exercise of the rights granted to Beneficiary under this assignment or the failure of Beneficiary to perform any obligation of Borrower arising under Leases.

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IN WITNESS WHEREOF, Borrower has executed this Deed of Trust on the day and year set forth above. By signing below, Borrower agrees to the terms and conditions as set forth above.

BORROWER
Southeast Fresno, RAD, LP, a California limited partnership

By:_____ Date:_____
Name: Preston Prince
Title: Executive Director
(Attach notary certificate of acknowledgment)

EXHIBIT "A"
To Deed of Trust

The Property is located at 4216 E. Hamilton Avenue, Fresno, CA 93702.

Real property in the City of Fresno, County of Fresno, State of California, described as follows:

LOTS 7, 8, 9, 10, 16, 17 AND THE EAST HALF OF LOT 18 OF GORDONDALE, ACCORDING TO THE MAP RECORDED IN BOOK 8 OF PLATS, PAGE 45 IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA.

EXCEPTING THEREFROM THE WEST 10 FEET OF SAID LOT 7 CONVEYED TO THE COUNTY OF FRESNO, BY GRANT DEED RECORDED JUNE 13, 1967 IN BOOK 5448, PAGE 173 OF OFFICIAL RECORDS OF FRESNO COUNTY.

APN: 471-211-01T, 471-212-01t and portion of 471-220-01T

The Property is located at 510 S. Peach Avenue, Fresno, CA 93727.

Real property in the City of Fresno, County of Fresno, State of California, described as follows:

PARCEL B OF PARCEL MAP NO. 77-54 ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 27 PAGE 85 OF PARCEL MAPS, RECORDS OF SAID COUNTY.

APN: 463-050-22

The following is a copy of provisions (1) to (14), inclusive, of the fictitious deed of trust, recorded in each county in California, as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as if set forth at length therein

To Protect the Security of This Deed of Trust, Trustor (herein "Borrower") Agrees:

(1) To keep said property in good condition and repair, not to remove or demolish any building thereon, to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon, not to commit or permit waste thereof, not to commit, suffer or permit any act upon said property in violations of law to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Borrower. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

(4) To pay at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock, when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto, all costs, fees and expenses of this Trust.

Should Borrower fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Borrower and without releasing Borrower from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto, and in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

(6) That any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or

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release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(7) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his rights either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(8) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said Note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may reconvey any part of said property, consent to the making of any map or plot thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(9) That upon written request of Beneficiary state that all sums secured hereby have been paid, and upon surrender of this Deed and said Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "The person or persons legally entitled thereto "Five years after issuance of such full reconveyance, Trustee may destroy said note and this Deed (unless directed in such request to retain them).

(10) That as additional security, Borrower hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Borrower the right, prior to any default by Borrower in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect the rents, issues and profits of said property, reserving unto Borrower the right, prior to any default by Borrower in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person , by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees. Upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(11) That upon default by Borrower in payment of any indebtedness secured hereby or in performance of any agreement hereunder. Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Borrower, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone

sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Borrower, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof, all other sums then secured hereby, and the remainder, if any, to the person or persons legally entitled thereto.

(12) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Borrower, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

(13) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby whether or not named as Beneficiary herein in this Deed, whenever the context so requires ,the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(14) That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Borrower, Beneficiary or Trustee shall be a party unless brought by Trustee.

DO NOT RECORD
REQUEST FOR FULL RECONVEYANCE
To be used only when note has been paid:
To Lawyers Title Company, Trustee: Dated _____
The undersigned is the legal owner and holder of all indebtedness secured by the within Deed of Trust. All sums secured by said Deed of Trust have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel all evidences of indebtedness, secured by said Deed of Trust, delivered to you herewith together with said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, the estate now held by you under the same.
MAIL RECONVEYANCE TO:
By _____

Do not lose or destroy this Deed of Trust OR THE NOTE which it secures. Both must be delivered to the Trustee for cancellation before reconveyance will be made.

EXHIBIT "H" - EXEMPLAR DECLARATION OF RESTRICTIONS

Recorded at the Request of
and When Recorded Return to:

City of Fresno
Development and Resource Management Dept.
Housing and Community Development Division
2600 Fresno Street, Room 3070
Fresno, CA 93721-3605

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

The document is exempt from the payment of a recording fee in accordance with Government Code Sections 6103 and 27383.

APN: 471-211-01T, 471-212-01T, and portion of 471-220-01T, and 463-050-22T

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS, ("Declaration"), is executed as of this _____ day of _____, 2013, by Southeast Fresno RAD, LP, a California limited partnership ("DECLARANT"), in favor of the CITY OF FRESNO, a California municipal corporation ("CITY").

WHEREAS, DECLARANT is the owner of the real estate in the county of Fresno, state of California located at 4216 E. Hamilton Avenue, Fresno, California 93702 and 510 S. Peach Avenue, Fresno, California 93727 (A.P.N.: 471-211-01T, 471-212-01T, and portion of 471-220-01T, and 463-050-22T, which is more particularly described in EXHIBIT "A" – Property Description, attached hereto and made a part hereof, including the improvements thereon (the "Property"); and

WHEREAS, pursuant to a certain City of Fresno HOME Investment Partnerships Agreement dated _____ 2013, incorporated herein by reference ("HOME Agreement") and instruments referenced therein, DECLARANT agrees to utilize, the CITY agrees to provide, certain HOME funds from the United States Department of Housing and Urban Development ("HUD"), to DECLARANT and DECLARANT agrees to rehabilitate the Cedar Court Apartments and the Inyo Terrace Apartments as Affordable Low-Income housing, subject to the terms and conditions set forth in the HOME Agreement, and reserve the unit for a Low-Income household earning fifty percent (50%) to eighty percent (80%), or below, of the area median income for the Fresno Metropolitan Statistical Area ("FMSA").

WHEREAS, the HOME regulations promulgated by HUD, including without limitation 24 C.F.R. 92.252; 24 and the HOME Agreement impose certain affordability requirements upon property owned by the DECLARANT, which affordability restrictions shall be enforceable for a fifty-five (55) year period; and

WHEREAS, these restrictions are intended to bind the DECLARANT, and all purchasers of the Property and their successors.

NOW THEREFORE, DECLARANT declares that the Property is held and will be held, transferred, encumbered, used, sold, conveyed and occupied subject to the covenants, restrictions, and limitations set forth in this Declaration, all of which are declared and agreed to be in furtherance of the Project. All of the restrictions, covenants and limitations will run with the land and will be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, will inure to the benefit of the CITY, and will be enforceable by it. Any purchaser under a contract of sale covering any right, title or interest in any part of the Property, by accepting a deed or a contract of sale or agreement of purchase, accepts the document subject to, and agrees to be bound by, any and all restrictions, covenant, and limitations set forth in this Declaration commencing on the date the DECLARANT is notified by the CITY that the Affordable Unit Homebuyer information is has been entered into HUD's Integrated Disbursement and Information System (IDIS) as provided in the HOME Agreement, constituting the commencement of the fifty-five (55) year Affordability Period.

1. Declarations. DECLARANT hereby declares that the Property is and shall be subject to the covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of the Project and the HOME Agreement, and are established and agreed upon for the purpose of enhancing and protecting the value of the Property and in consideration of the CITY entering into the HOME Agreement with the DECLARANT.

2. Restrictions. The following covenants and restrictions on the use and enjoyment of the Property shall be in addition to any other covenants and restrictions affecting the Property, and all such covenants and restrictions are for the benefit and protection of the CITY and shall run with the Property and be binding on any future owner's of the Property and inure to the benefit of and be enforceable by CITY. These covenants and restrictions are as follows:

a. The DECLARANT for itself and its successor(s) on title covenants and agrees that from the date the Project is entered into IDIS as complete, until the expiration of the Affordability Period, it shall cause nine (9) of the Affordable Units to be used as Affordable rental housing Units. The DECLARANT further agrees to file a recordable document setting forth the Project Completion Date and Affordability Period when determined by the CITY. Unless otherwise provided in the Agreement, the term Affordable Housing shall include, without limitation, compliance with the following requirements:

i. Nondiscrimination. There shall be no discrimination against nor segregation of any persons or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, or handicap in the sale, transfer, use, occupancy, tenure, or enjoyment of any of the Property, nor shall DECLARANT establish or permit any practice of discrimination or segregation with reference to the selection, location, number, use or occupancy of owners or vendees of the Project and/or Property.

ii. Principal Residence. Each of the nine (9) HOME-assisted Affordable Units within the Project upon the Property shall be leased only to eligible Low-Income households, who shall occupy Affordable Units as their principal resident. The forgoing requirement that the Property tenants occupy the Affordable Units as their principal residence does not apply to persons, other than natural persons, who acquire the

Property or portion thereof by foreclosure or deed in lieu of foreclosure or HUD qualified entity that acquires the Property or portion thereof, with the consent of the CITY.

iii. Income Requirements. A total of nine (9) Affordable Units may be leased only to eligible households whose annual income at the time of initial occupancy is not greater than fifty percent (50%) to eighty percent (80%) of the most recent annual median income calculated and published by HUD for the FMSA applicable to such household's size.

3. Enforcement of Restrictions. Without waiver or limitation, the CITY shall be entitled to injunctive or other equitable relief against any violation or attempted violation of any Covenant and Restriction.

4. Acceptance and Ratification. All present and future owners of the Property and other persons claiming by, through, or under them shall be subject to and shall comply with the Covenant and Restriction. The acceptance of a deed of conveyance to the Property shall constitute an agreement that the Covenant and Restriction, as may be amended or supplemented from time to time, are accepted and ratified by future owners, tenant or occupant, and such Covenant and Restriction shall be a covenant running with the land and shall bind any person having at any time any interest or estate in the Property, all as though such Covenant and Restriction was recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

Notwithstanding the foregoing, upon foreclosure by a lender or other transfer in lieu of foreclosure, or assignment of an FHA-insured mortgage to HUD, the Affordability Period shall be terminated unless the foreclosure or other transfer in lieu of foreclosure or assignment recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid the termination of low-income affordability. However, the requirements with respect to Affordable Unit shall be revived according to their original terms, if during the original Affordability Period, the owner of record before the foreclosure or other transfer, or any entity that includes the former owner of those with whom the former owner has or had formally, family or business ties, obtains an ownership interest in the Project or the Property, the Affordability Period shall be revived according to its original terms.

5. Benefit. This Declaration shall run with and bind the Property for a term commencing on the date Project information is entered into IDIS as complete, until the expiration of the fifty-five (55) year Affordability Period. The failure or delay at any time of CITY and/or any other person entitled to enforce this Declaration shall in no event be deemed a waiver of the same, or of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof.

6. Costs and Attorney's Fees. In any proceeding arising because of failure of DECLARANT or any future owner of the Property to comply with the Covenant and Restriction required by this Declaration, as may be amended from time to time, the CITY shall be entitled to recover its respective costs and reasonable attorney's fees incurred in connection with such default or failure.

7. Waiver. Neither DECLARANT nor any future owner of the Property may exempt itself from liability for failure to comply with the Covenant and Restriction required in this Declaration; provided however, that upon the transfer of the Property, the transferring owner may be released from liability hereunder, upon the CITY's written consent of such transfer, which consent shall not be unreasonably withheld, conditioned or delayed.

8. Severability. The invalidity of the Covenant and Restriction or any other covenant, restriction, condition, limitation, or other provision of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration and each shall be enforceable to the greatest extent permitted by law.

9. Pronouns. Any reference to the masculine, feminine, or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

10. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs, and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

11. Amendment. No amendment or modification of this Declaration shall be permitted without the prior written consent of the CITY and DECLARANT.

12. Recordation. DECLARANT acknowledges that this Declaration will be filed of record in the Office of the Recorder of County of Fresno, State of California.

13. Capitalized Terms. All capitalized terms used in this Declaration, unless otherwise defined herein, shall have the meanings assigned to such terms in the HOME Agreement.

14. Headings. The headings of the articles, sections, and paragraphs used in this Declaration are for convenience only and shall not be read or construed to affect the meaning or construction of any provision.

15. DECLARANT LIABILITY. The DECLARANT nor any of its general or limited partners shall have any personal liability for the obligations under this Declaration. The sole recourse of the CITY shall be exercised of its rights against the Property pursuant to the Deed of Trust and Lender shall have no right to seek or recover any deficiency amount from DECLARANT.

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IN WITNESS WHEREOF, DECLARANT has executed this Declaration of Restrictions on the date first written above.

DECLARANT:

Southeast Fresno RAD, LP, a California limited partnership

By: _____ Date: _____
Name: Preston Prince
Title: Executive Director
(Attach notary certificate of acknowledgment)

EXHIBIT "A"
To Declaration of Restrictions

The Property is located at 4216 E. Hamilton Avenue, Fresno, CA 93702.

Real property in the City of Fresno, County of Fresno, State of California, described as follows:

LOTS 7, 8, 9, 10, 16, 17 AND THE EAST HALF OF LOT 18 OF GORDONDALE, ACCORDING TO THE MAP RECORDED IN BOOK 8 OF PLATS, PAGE 45 IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA.

EXCEPTING THEREFROM THE WEST 10 FEET OF SAID LOT 7 CONVEYED TO THE COUNTY OF FRESNO, BY GRANT DEED RECORDED JUNE 13, 1967 IN BOOK 5448, PAGE 173 OF OFFICIAL RECORDS OF FRESNO COUNTY.

APN: 471-211-01T, 471-212-01t and portion of 471-220-01T

The Property is located at 510 S. Peach Avenue, Fresno, CA 93727.

Real property in the City of Fresno, County of Fresno, State of California, described as follows:

PARCEL B OF PARCEL MAP NO. 77-54 ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 27 PAGE 85 OF PARCEL MAPS, RECORDS OF SAID COUNTY.

APN: 463-050-22

September 12, 2013

RECEIVED
2013 SEP 17 PM 4:36
CITY CLERK, FRESNO CA

Council Adoption: 9/12/2013
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR ASHLEY SWEARENGIN

FROM: YVONNE SPENCE, CMC
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 9/12/13, Council approved **a $1.5 million HOME Investment Partnerships Program Agreement with Southeast Fresno RAD, LP, for rehabilitation of several properties,** Item No. **2D,** by the following vote:

Ayes	:	Baines, Brandau, Caprioglio, Olivier, Quintero, Xiong
Noes	:	Brand
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before September 23, 2013. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

****

APPROVED/NO RETURN: _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

_____

_____

Ashley Swearengin, Mayor

Date: 9/17/13

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes	:
Noes	:
Absent	:
Abstain	: